

**BOARD OF ELECTIONS AND ETHICS**  
**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there is one vacancy in Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code 1-309.06(d)(2); 2001 Ed.

**VACANT:                      6B04**

Petition Circulation Period: **Monday, October 15, 2007 thru Monday, November 5, 2007**  
Petition Challenge Period: **Thursday, November 8, 2007 thru Wednesday, November 14, 2007**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions from 8:30 am to 4:45 pm, Monday through Friday at the following location:

**D.C. Board of Elections and Ethics**  
**441 - 4<sup>th</sup> Street, NW, Room 250N**  
**Washington, DC 20001**

For more information, the public may call **727-2525**.

## DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS

## Public Notice of Proposed Polling Place Relocation

---

The Board of Elections and Ethics hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 3, 2007 meeting in relocating Precinct #8, Ward 3 Polling Place.

The public is advised that the proposed voting area for Precinct #8 will be changed from:

**Palisades Public Library  
4901 V Street, N.W.  
Meeting Room**

and moved to:

**Palisades Recreation Center  
5100 Sherrier Place, N.W.  
Gymnasium**

The precinct change will provide adequate space to accommodate voters on election day. Further, the precinct is accessible and will accommodate voters with disabilities. **This action will be effective beginning with the upcoming February 12, 2008, Presidential Preference Election.** If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-2525 **no later than Monday, November 5, 2007** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 7, 2007. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's Final action.

For further information, members of the public may contact the Board of Elections and Ethics at 727-2525.

## DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS

## Public Notice of Proposed Polling Place Relocation

---

The Board of Elections and Ethics hereby gives public notice, in accordance with D.C. Official Code §1-309.10, of proposed action taken at its October 3, 2007 meeting in relocating Precinct #75, Ward 5 Polling Place.

The public is advised that the proposed voting area for Precinct #75 will be changed from:

**Harry Thomas Recreation Center  
1743 Lincoln Road, N.E.  
Meeting Room**

and moved to:

**McKinley Technology High School  
151 T Street, N.E.  
Auditorium**

The precinct change will provide adequate space to accommodate voters on election day. Further, the precinct is accessible and will accommodate voters with disabilities. **This action will be effective beginning with the upcoming February 12, 2008, Presidential Preference Election.** If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-2525 **no later than Monday, November 5, 2007** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 7, 2007. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board's Final action.

For further information, members of the public may contact the Board of Elections and Ethics at 727-2525.

EXECUTIVE OFFICE OF THE MAYOR  
Serve DC

PUBLIC NOTICE

NOTICE OF FUNDING AVAILABILITY

DISTRICT OF COLUMBIA  
COMMISSION ON NATIONAL AND COMMUNITY SERVICE

K-12 Learn and Serve America School-Based Grants

**Notice:** ATTENDANCE AT A TECHNICAL ASSISTANCE SESSION IS REQUIRED IN ORDER TO BE ELIGIBLE TO APPLY FOR THIS GRANT. SESSIONS ARE SCHEDULED FOR OCTOBER 17, 2007 FROM 5:00PM TO 7:00PM AND NOVEMBER 8, 2007 FROM 5:00PM TO 7:00PM AT ONE JUDICIARY SQUARE, 441 4<sup>TH</sup> STREET NW, WASHINGTON, DC, CONFERENCE ROOM NUMBER 1114. ADDITIONALLY, A TECHNICAL ASSISTANCE CONFERENCE CALL IS SCHEDULED FOR NOVEMBER 14, 2007 FROM 4:00PM-5:00PM (REGISTRATION REQUIRED).

**Summary:** Serve DC, the DC Commission on National and Community Service, announces the availability of K-12 Learn and Serve America School-Based funds for **grants up to \$14,000**. Learn and Serve America is a program of the Corporation for National and Community Service that creates opportunities for youth to participate in service-learning initiatives. Service-learning is a teaching and learning strategy that offers students the opportunity to participate in meaningful and relevant community service activities that address authentic community needs and make curricular connections beyond the classroom.

Awards will be made to K-12 public schools in the District of Columbia to incorporate service-learning as an educational strategy in the classroom. This initiative will support a wide range of program activities that emphasize authentic youth engagement in their communities. These activities will enable youth to meet local environmental, educational, public safety, homeland security, or other community needs. Additionally, applicants must propose to implement service-learning projects that connect to one or more core curriculum standards.

**Criteria for eligible applicants:** Eligible applicants are K-12 public schools including public charter schools. Applicants must be in partnership with at least one additional community partner organization. Public school partners may include private/independent schools, for-profit businesses, institutions of higher education and other non-profits including faith-based organizations. Schools and partnership organizations are responsible for implementation, replication, and/or expansion of service-learning activities in the school and local community. All projects must operate a service-learning program within the District of Columbia.

An organization described in Section 501 (c) (4) of the Internal Revenue Code, 26 U.S.C. 501 (c) (4), that engages in lobbying activities is not eligible to apply, serve as a host site for members, or act in any type of supervisory role in the program. **Individuals are not eligible to apply.**

All eligible applicants must meet all of the applicable requirements contained in the application guidelines and instructions. The Request for Application (RFA) will be released on October 5, 2007 at 9:00 a.m. **The deadline for submission to Serve DC is November 16, 2007 at 5:00 p.m.**

The schedule for technical assistance sessions is as follows: One Judiciary Square, 441 4<sup>th</sup> Street NW, Room 1114, October 17, 2007 from 5:00pm-7:00pm and November 8, 2007 from 5:00pm-7:00pm. Additionally, one conference call is scheduled for November 14 from 4:00pm-5:00pm (registration is required). **All interested applicants must register and attend one technical assistance session in order to apply for funds.** Please prepare by reading the RFA carefully. To RSVP for a training session, contact Kristen Henry, Serve DC Learn and Serve Coordinator, at (202)-727-8003 or [kristen.henry@dc.gov](mailto:kristen.henry@dc.gov).

Serve DC anticipates awarding grants of up to \$14,000 for Learn and Serve School-Based grants. Applicants must provide a total of 30% match in cash or in-kind non-Federal sources. The actual number and dollar amount of the awards will depend upon the number of approved applications received.

Applications can be obtained starting at 9:00 AM on October 5, 2007 from the Serve DC office at 441 4<sup>th</sup> Street NW, Suite 1140N, Washington, DC 20001 or downloaded and printed from the Serve DC website at [www.serve.dc.gov](http://www.serve.dc.gov). For additional information please call Kristen Henry, Learn and Serve Coordinator at (202) 727-8003.

---

Millicent Williams  
Executive Director  
Serve DC

**FRIENDSHIP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

Friendship Public Charter School (FPCS) is soliciting proposals for the following services

**SOFTWARE COMPANY**

That will provide us with an effective and efficient Donor Management Software that is adequate for our growing needs to communicate with our growing constituency in accordance with requirements and specifications detailed in the Request for Proposal.

**EDUCATIONAL/PROFESSIONAL DEVELOPMENT CONSULTANTS**

Friendship Public Charter School is seeking bids from prospective candidates to provide Educational/Professional Development in accordance with requirements and specifications detailed in the Request for Proposal.

An electronic copy of the full Request for Proposal (RFP) may be requested by contacting:

Valerie Holmes  
[vholmes@friendshipschools.org](mailto:vholmes@friendshipschools.org)  
202-281.1722

**D.C. DEPARTMENT OF HEALTH**  
Community Health Administration  
Preventive Health and Health Services Block Grant Advisory Committee

Announces

**REQUEST FOR APPLICATIONS**  
**Preventive Health and Health Services Block Grant**

Release Date: October 19, 2007  
Deadline for Applications: November 14, 2007

**PRE-APPLICATION CONFERENCE**

October 24, 2007  
10:00 a.m.

D.C. Department of Health  
825 North Capitol Street, NE  
2<sup>nd</sup> Floor Conference Room (2125)

The D.C. Department of Health (DOH), Community Health Administration (CHA) and the Preventive Health and Health Services Block Grant Advisory Committee will release a Request for Applications (RFA) for funding of community-based organizations to provide services that will assist residents to access integrated (holistic) health care for prevention and treatment of obesity, chronic and communicable diseases, and primary care at neighborhood health facilities.

RFAs will be available for pickup October 19, 2007 to November 9, 2007 at 825 North Capitol Street, NE, Third Floor (Room 3141); Washington, D.C. 20002. The deadline for submission and receipt of completed RFAs is November 14, 2007 by 4:45 p.m. Late submissions will not be accepted.

Applications may be downloaded on [opgd@dc.gov/info/grant/funding-grants](mailto:opgd@dc.gov/info/grant/funding-grants). Applicants are encouraged to e-mail, mail or fax their questions to [carolyn.bothuel@dc.gov](mailto:carolyn.bothuel@dc.gov) prior to the Pre-Application Conference on October 24, 2007 at 10:00 a.m. Send e-mail requests to [patricia.greenaway@dc.gov](mailto:patricia.greenaway@dc.gov). For assistance, call Carolyn Bothuel at (202) 442-9142.

## DEPARTMENT OF HEALTH

## MEDICAL ASSISTANCE ADMINISTRATION

NOTICE OF PUBLIC MEETING

The Medical Assistance Administration Pharmacy and Therapeutics Committee (MAA P& T Committee), pursuant to the requirements of Mayor's Order 2007-46, dated January 23, 2007, hereby announces a public meeting of the MAA P&T Committee to obtain input on establishing and implementing a Preferred Drug List (PDL) for the District of Columbia. The meeting will be held Thursday, November 1, 2007, at 2:30 p.m. in Conference Room 4131, at 825 North Capitol Street, NE Washington, DC 20002.

The MAA P&T Committee will receive comments from interested individuals on issues relating to the topics or class reviews to be discussed at this meeting. The clinical drug class review for this meeting will include:

- Growth Hormones
- Onychomycosis Antifungals
- Urinary Tract Antispasmodics
- Platelet Inhibitors
- Antiemetics
- Carbonic Anhydrase Inhibitors - Glaucoma
- Alpha-2 Adrenergic Agents - Glaucoma
- Beta Blockers - Glaucoma
- Ophthalmic NSAIDs
- Ophthalmic Fluoroquinolones
- Ophthalmic Mast Cell Stabilizers
- Otic Fluoroquinolones

Any person or organizations who wish to make a presentation to the MAA P&T Committee should furnish his or her name, address, telephone number, and name of organization represented by calling (202) 442-9078 or (202) 442-9076 no later than 4:45 p.m. on Friday, October 26, 2007. Individuals wishing to make an oral presentation to the MAA P&T Committee will be limited to three (3) minutes. A person wishing to provide written information should supply twenty (20) copies of the written information to the MAA P&T Committee no later than 4:45 p.m. on Friday, October 26, 2007. Handouts are limited to no more than two standard 8-1/2 by 11 inch pages of "bulleted" points (or one page front and back). The ready-to-disseminate, written information may also be mailed before the meeting to:

Medical Assistance Administration  
Attention: Carolyn Rachel-Price R.Ph  
Suite 5136  
825 North Capitol Street, NE  
Washington, DC 20002



**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Department of Human Services**  
**Office of Grants Management**

**CHILD DEVELOPMENT ASSOCIATE (CDA) TRAINING GRANT AWARD  
ANNOUNCEMENT POSTPONED UNTIL NOVEMBER 2007**

The Department of Human Services, Early Care and Education Administration (DHS/ECEA) oversees the provision of a number of programs for early care, child development, early intervention and early literacy. A key component of its mission to support families is the DHS/ECEA Child Development Associate (CDA) Training program, which is designed to increase the number and availability of qualified early care and education professionals and to improve the quality of early care and education services in the District of Columbia. CDA training is the first step in the early care and education professional field that prepares young children for school and for life.

A number of organizations have responded to the Request for Applications (RFA) No. 0727-07 seeking applicants to provide CDA training. Because limited funds are available for awarding grants, DHS/ECEA needs to select the best qualified applicants and ensure that grantees are able to meet the needs of the District's culturally diverse populations. Therefore the announcement of the award(s) will occur in November 2007 in order to ensure the selection of the best qualified candidates to achieve DHS/ECEA's goal.

Questions regarding this announcement should be referred to Sandra McIver, DHS/ECEA Grants Management Specialist, at (202) 727-1839 or via email at [Sandra.mciver@dc.gov](mailto:Sandra.mciver@dc.gov).

**DISTRICT OF COLUMBIA OFFICE OF PLANNING****NOTICE OF AVAILABILITY OF THE BENNING ROAD CORRIDOR  
REDEVELOPMENT FRAMEWORK DRAFT FINAL PLAN FOR PUBLIC  
COMMENT AND CONVENING OF PUBLIC HEARING**

**ACTION:** Notice of Availability of the Benning Road Corridor Redevelopment Framework Draft Final Plan for Public Comment and Convening of Public Hearing.

**SUMMARY:** The Benning Road Corridor Redevelopment Framework is part of the Great Streets Initiative, announced by former Mayor Anthony Williams in March 2005. This multi-year effort seeks to bring together numerous agencies to transform under-invested corridors into thriving and inviting neighborhood centers by using public actions and tools as needed to attract private investment. The Benning Road Corridor Redevelopment Framework presents an opportunity to take stock of what exists on Benning Road and develop recommendations that will realize the aspirations of a diverse group of local stakeholders. This Plan combines community aspirations with professional research and analysis to set a framework for how Benning Road will improve over the next twenty years.

The DC Office of Planning has published for public review and comment the Benning Road Corridor Redevelopment Framework Draft Final Plan. The plan is a preliminary analysis of various redevelopment opportunities along Benning Road. DCOP emphasizes that the findings, conclusions and recommendations in the Draft Small Area Plan are preliminary. The DC Office of Planning is providing a 30-day public comment period on the Draft Final Benning Road Corridor Redevelopment Framework Plan. Comments must be postmarked by the close of the comment period, which is November 13, 2007. Information on how to submit comments is set forth below.

The DC Office of Planning, working in collaboration with the cooperating agencies, will consider all public comments on the Draft Plan and make its final recommendations on the project to the Mayor of the District of Columbia. Subsequently, the mayor will submit to the District of Columbia City Council for consideration of a Revised Draft Plan. The Council will provide additional opportunities for public comment, and will review and fully evaluate the Revised Draft Plan. The Council will make its final decision regarding this project and any modifications and conditions it might impose on the Plan. The Mayor, through the cooperating agencies will implement the plan.

**FOR FURTHER INFORMATION CONTACT:** Deborah Crain, Neighborhood Planning Coordinator-Ward 5; Jeff Davis, Neighborhood Planning Coordinator –Ward 6; or Evelyn Kasongo, Neighborhood Planning Coordinator-Ward 7, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7600; fax at (202) 442-7638; or email at [deborah.crain@dc.gov](mailto:deborah.crain@dc.gov); [jeff.davis@dc.gov](mailto:jeff.davis@dc.gov); and [evelyn.kasongo@dc.gov](mailto:evelyn.kasongo@dc.gov).

**SUPPLEMENTARY INFORMATION:****Public Availability**

The DC Office of Planning has distributed the Draft Plan to several public entities and asked that the entire Draft Final Plan be made available for the public to review. The Draft Final Plan is also available for public reviews at:

Richard England Clubhouse (Boys  
and Girls Club)  
4103 Benning Road, NE  
Washington, DC 20019

Benning Interim Library  
4101 Benning Road, NE  
Washington, DC 20019

DC Office of Planning  
801 North Capitol Street NE, Suite  
4000  
Washington, DC 20002

Benning Park Recreation Center  
53<sup>rd</sup> and Fitch Streets, SE  
Washington, DC 20019

Langston Golf Course Clubhouse

28<sup>th</sup> and Benning Road, NE  
Washington, DC 20002

Langston Public Library  
2600 Benning Road, NE  
Washington, DC 20002

Rosedale Recreation Center  
1700 Gales Street, NE  
Washington, DC 20002

Miner Elementary School  
601 15<sup>th</sup> Street, NE  
Washington, DC 20002

Marshall Heights Community  
Development Organization  
3939 Benning Road NE  
Washington, DC 20019

The draft plan is also available online at the DC Office Planning Web site:  
[www.planning.dc.gov](http://www.planning.dc.gov)

**Public Comment**

Written comments on the Draft Plan must be submitted by November 13, 2007. Comments must include the name, address and any organization for which the comments represent. Please send all comments to: Deborah Crain, Neighborhood Planning Coordinator-Ward 5; Jeff Davis, Neighborhood Planning Coordinator -Ward 6; or Evelyn Kasongo, Neighborhood Planning Coordinator-Ward 7, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by fax at (202) 442-7638; or email at [deborah.crain@dc.gov](mailto:deborah.crain@dc.gov); [jeff.davis@dc.gov](mailto:jeff.davis@dc.gov); and [evelyn.kasongo@dc.gov](mailto:evelyn.kasongo@dc.gov).

**Mayoral Hearing**

In addition to receiving written comments on the Draft Plan, DC Office of Planning will host a Mayoral Hearing on November 14, 2007 at Miner Elementary School located at 601 15<sup>th</sup> Street NE, Washington DC 20002 from 6:00 to 8:00 p.m.

At the hearing, DC Office of Planning will provide boards with visual representation pertaining to the recommendations set forth within the Draft Final Plan and respond to any questions relative to the graphic displays. Following this, members of the public will have an opportunity to offer comments.

**Submitted by:** Evelyn D. Kasongo, Neighborhood Planning Coordinator-Ward 7, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7613; fax at (202) 442-7638; or email at [evelyn.kasongo@dc.gov](mailto:evelyn.kasongo@dc.gov).

**DISTRICT OF COLUMBIA OFFICE OF PLANNING****NOTICE OF AVAILABILITY OF THE DEANWOOD/NANNIE HELEN  
BURROUGHS AVENUE NE/MINNESOTA AVENUE NE STRATEGIC  
DEVELOPMENT DRAFT PLAN FOR PUBLIC COMMENT AND CONVENING  
OF PUBLIC HEARING**

**ACTION:** Notice of Availability of the Deanwood/Nannie Helen Burroughs Avenue NE/Minnesota Avenue NE Strategic Development Draft Plan for Public Comment and Convening of Public Hearing.

**SUMMARY:** In early 2006, the Office of Planning, in conjunction with the Office of the Deputy Mayor for Planning and Economic Development (ODMPED) and the District Department of Transportation (DDOT) was charged with creating a plan for Deanwood as part of the Great Streets Initiative. Deanwood is located in Ward 7 of the District of Columbia. Great Streets is a multidisciplinary approach to corridor improvement comprised of public realm investments, strategic land use plans, public safety strategies, and economic development assistance. The primary purpose of the Deanwood Strategic Development Plan is to provide clear policy direction for land use and development within Deanwood and its major corridors. It proposes future land use and provides guidelines for development related to development intensity and other development characteristics. The plan offers development concepts for selected focus areas that represent a range of development opportunities throughout the project area. Ultimately, the Draft Master Plan requires review, consideration and, as appropriate, adoption by the District of Columbia City Council. If adopted, the project would require action by a number of DC agencies, as well as the non-governmental and private sectors.

The DC Office of Planning has published for public review and comment the Deanwood/Nannie Helen Burroughs Avenue NE/Minnesota Avenue NE Strategic Development Draft Plan. The Plan is a preliminary analysis of various redevelopment opportunities within the Deanwood and its major corridors. DCOP emphasizes that the findings, conclusions and development scenarios in the Draft Small Area Plan are preliminary. The DC Office of Planning is providing a 30-day public comment period on the Draft Deanwood Strategic Development Plan. Comments must be postmarked by the close of the comment period, which is November 14, 2007. Information on how to submit comments is set forth below.

The DC Office of Planning, working in collaboration with the cooperating agencies, will consider all public comments on the Draft Plan and make its final recommendations on the project to the Mayor of the District of Columbia. Subsequently, the Mayor will submit to the District of Columbia City Council for consideration a Revised Draft Plan. The Council will provide additional opportunities for public comment, and will review and fully evaluate the Revised Draft Plan. The Council will make its final decision regarding this project and any modifications and conditions it might impose on the plan. The mayor, through the cooperating agencies will implement the plan.

**FOR FURTHER INFORMATION CONTACT:** Evelyn D. Kasongo, Neighborhood Planning Coordinator-Ward 7, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7613; fax at (202) 442-7638; or email at [evelyn.kasongo@dc.gov](mailto:evelyn.kasongo@dc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Public Availability**

The DC Office of Planning has distributed the Draft Plan to several public entities, including the Advisory Neighborhood Commission 7C and 7D and asked that the entire Draft Plan be made available for the public to review. The Draft Plan is also available for public reviews at:

DC Public Library  
901 G Street NW  
Washington, DC 20001

Deanwood Kiosk Library  
4215 Nannie Helen Burroughs  
Avenue NE  
Washington, DC 20019

DC Office of Planning  
801 North Capitol Street NE  
Washington, DC 20002

Advisory Neighborhood Commission  
7C  
4651 Nannie Helen Burroughs  
Avenue NE, #2

Washington, DC 20019

Advisory Neighborhood Commission  
7D  
5140 Nannie Helen Burroughs Ave.  
NE  
Washington, DC 20019

Deanwood Citizen's Association  
920 52nd St. NE  
Washington, DC 20019

Marshall Heights Community  
Development Organization  
3939 Benning Road NE  
Washington, DC 20019

The draft plan is also available online at the DC Office Planning Web site:  
[www.planning.dc.gov](http://www.planning.dc.gov)

### **Public Comment**

Written comments on the Draft Plan must be submitted by November 15, 2007. Comments must include the name, address and any organization for which the comments represent. Please send all comments to

**Mayoral Hearing**

In addition to receiving written comments on the Draft Plan, DC Office of Planning will host a Mayoral Hearing on November 15, 2007 at Friendship Edison PCS located at 4095 Minnesota Ave NE, Washington DC 20019 from 6:00 to 8:00 p.m.

At the hearing, DC Office of Planning will provide boards with visual representation pertaining to the recommendations set forth within the Draft Final Plan and respond to any questions relative to the graphic displays. Following this, members of the public will have an opportunity to offer comments.

**Submitted by:** Evelyn D. Kasongo, Neighborhood Planning Coordinator-Ward 7, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7613; fax at (202) 442-7638; or email at [evelyn.kasongo@dc.gov](mailto:evelyn.kasongo@dc.gov).

Office of the Secretary of the  
District of Columbia

September 13, 2007

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after October 15, 2007.

Alexander, Katharine A.	New	Skadden Arps 1440 N Y Ave, NW 20005
Arias, Jordana	New	U D C/School of Law Bldg 39, Rm#211 20008
Awoyera, Helen Olushola	New	Covenant Title 7600 Ga Ave, NW#301 20012
Baghdasarian, Louisa	Rpt	Urban Institute 2100 M St, NW 20037
Baker, Joyce M.	Rpt	Sher & Blackwell 1850 M St, NW#900 20036
Baker, Julie Ann	Rpt	Ace Federal Reporters 1401 N Y Ave, NW#1230 20005
Banerjee, Janet	Rpt	Howard Eales Inc 5157 MacA Blvd, NW 20016
Barry, Mary	New	Hounshell Real Estate 1506 14 <sup>th</sup> St, NW 20005
Bernard, Kenya	New	U.S. Coast Guard 2100 2 <sup>nd</sup> St, SW 20593
Bernillon, Anna	New	N C N Construction 3143 N St, NW 20007
Bowersox, Agnes C.	New	Quinn Racusin & Gazzola 1400 K St, NW#1010 20005



Bowman, Lucy M.	Rpt	DLA Piper US 1200 19th St,NW 20036
Brokenborough, Keith	New	CitiBank 5700 Conn Ave,NW 20015
Brown, Pamela L.	New	H O R L H O B B227 20515
Brown, Stephanie	New	Child & Family Services 400 6 <sup>th</sup> St,SW 20024
Brynteson, Karen M.	Rpt	Brynteson Reporting 888 16th St,NW#800 20006
Burke, Charlotte	New	Esquire Deposition Serv 1020 19 <sup>th</sup> St,NW#620 20036
Burke, Lauren	New	Skadden Arps et al 1440 N Y Ave,NW 20005
Burley, Sandra M.	Rpt	Chicago Title Insurance 1129 20th St,NW#300 20036
Castellini, Kerri M.	New	1616 18 <sup>th</sup> St,NW#613 20009
Cestero, Tara E.	Rpt	Avenue Settlement 2401 Pa Ave,NW 20037
Chipoco, Jessica	New	1860 Ingleside Terr,NW 20010
Cohen, Brenda P.	Rpt	Hogan & Hartson 555 13th St,NW 20004
Crawford, Elizabeth	New	Omni Shoreham Hotel 2500 Calvert St,NW 20008
Cristaldo, Mario	New	Manna 828 Evarts St,NE 20018
Cunningham, Gail L.	Rpt	Legal Counsel for Elderly 601 E St,NW 20049

Dawson, Anita Carter	Rpt	Office/Admin Hearings 825 N Cap St, NE#4150 20020
Delaney, Willi	Rpt	Natl Council/Negro Women 633 Pa Ave, NW 20004
Dixon, Marilyn A.	Rpt	819 Longfellow St, NW 20011
Dorsey, Cheryl Lynn	Rpt	Williams & Williams 888 17th St, NW#504 20006
Elhillali, Ahmed M.	Rpt	Foreign Legal Consultant 1629 K St, NW#300 20006
Elia, Elizabeth	New	Manna 828 Evarts St, NE 20018
Fancher, Bridget S.	Rpt	Chasen & Chasen 5225 Wis Ave, NW#500 20015
Farha, B.D. Eddie	Rpt	2220 20th St, NW#51 20009
Felton, Eric	New	CitiBank 1000 Conn Ave, NW 20036
Fykes, III, Leroy	New	6665 13 <sup>th</sup> St, NW 20012
Goddard, Tyirusiaaeaea	Rpt	704 Columbia Rd, NW 20001
Green, Alamea	New	I B G Partners 1717 Pa Ave, NW#630 20006
Griffin, Shelinda D.	New	DOT/OAG 2000 14 <sup>th</sup> St, NW5thF1 20009
Guerrero, Rosa Maria	Rpt	Refugees International 1705 N St, NW 20036
Guy, Brittany M.	New	Skadden Arps 1440 N Y Ave, NW 20005

Hargis, Annette	Rpt	UMWA Health & Retirement 2121 K St,NW 20037
Hoffman, Margaret D.	New	H O R L H O B B227 20515
Howell-Robinson, Diane	Rpt	D Y R S/Records Mgt 450 H St,NW5thF1 20001
Hunter, Marc	New	Wachovia Bank 1300 I St,NW 20005
Ighnat, Patricia Ann	Rpt	Deloitte Services 555 12th St,NW 20004
Ireland, Angela	Rpt	CitiBank 5700 Conn Ave,NW 20015
Johnson, Courtenay	New	Skadden Arps 1440 N Y Ave,NW 20005
Keller, Marguerite D.	Rpt	Precise Reporting Serv 1900 L St,NW#401 20036
Kellogg, Margaret	New	H O R/C A O Longworth HOB B227 20515
Kopinski, Jan-Paul A.	New	Bank Fund Staff F C U 1818 H St,NW 20433
Lawson, Carlota H.	New	Omni Shoreham Hotel 2500 Calvert St,NW 20008
Leonard, Denise D.	New	H O R/C A O/First Call L H O B B227, SE 20015
McCaffrey, Christine	Rpt	C R A International 1201 F St,NW#700 20004
McKeiver, Phyllis C.	Rpt	Child Support Serv/M S U 441 4th St,NW 20001
Macartney, Julie B.	New	A E D 1825 Conn Ave,NW 20009

Maloney, Susan	Rpt	Scribner Hall Thompson 1875 I St,NW#1050 20006
Marshall, Julia P.	Rpt	Marshall's Funeral Home 4217 9th St,NW 20011
Maryniy, Mykhaylo	New	Wells Fargo Bank 1750 H St,NW 20006
Mejia, Maritza	New	Bank Fund Staff F C U 1818 H St,NW 20433
Michals, Monica	New	Interior Federal C U 1849 C St,NW#4045 20240
Miller, Tara J.	New	Combined Properties 1255 22 <sup>nd</sup> St,NW 20037
Montrose, Pamela R.	Rpt	Verizon Business 1133 19th St,NW 20036
Morin, Stephanie	New	Skadden Arps 1440 N Y Ave,NW 20005
Morrison, Margaret A.	New	Morgan Pharmacy 3001 P St,NW 20007
Omar, Yvonne	New	Combined Properties 1255 22 <sup>nd</sup> St,NW6thF1 20037
Opont, Donna Lee	Rpt	Hogan & Hartson 555 13th St,NW 20004
Osborne, Petra L.	New	H O R L H O B B227 20515
Patino, Christina	New	Capital Reporting 1821 Jefferson Pl,NW 20036
Pefley, Dawn M.	Rpt	Sher & Blackwell 1850 M St,NW#900 20036
Peterson, Joanne G.	Rpt	AFSCME Council 26 729 15th St,NW7thF1 20005

Pickeral, Jewelyn A.	Rpt	Amer Legacy Foundation 2030 M St,NW6thFl 20036
Plotkin, Leslie	New	R T K L 1250 Conn Ave,NW#400 20036
Rawlins, Dustin R.	New	Bd of Gov/Fed Reserv Sys 20 <sup>th</sup> & C Sts,NW 20551
Reeve, Rebecca J.	Rpt	Whitman-Walker Clinic 1407 S St,NW 20009
Robinson, Andrew	New	Stewart Title 11 Dup Cir,NW#750 20036
Rodriguez, Adam	New	Interior Federal C U 1849 C St,NW#4045 20240
Ross, Hazel	New	127 Longfellow St,NW 20011
Royal, Betty M.	Rpt	Smithsonian Institution 600 Maryland Ave,SW 20024
Sacks, Craig	Rpt	1838 16th St,NW#2 20009
Sadler, Joan	New	Baker & Hostetler 1050 Conn Ave,NW#1100 20036
Salguero, German V.	Rpt	Bazar Bookstore 1762 Columbia Rd,NW 20009
Sama, Connie H.	Rpt	Natl Assoc/Home Builders 1201 15th St,NW 20005
Schindler, Lynn M.	Rpt	L A D Reporting 1100 Conn Ave,NW#850 20036
Schryer, Linda C.	Rpt	Holocaust Memorial Museum 100WallenbergPl,SW 20024
Selmane, Myriam F.	New	ING Clarion 601 13 <sup>th</sup> St,NW 20005

Smith, Maureen	Rpt	Thompson Cobb Bazilio 1101 15th St,NW#400 20005
Steward, Shannetta N.	New	Stewart Title 11 Dup Cir,NW#750 20036
Stonerock, Rebecca L.	New	L A D Reporting 1100 Conn Ave,NW#850 20036
Taqui, Maheen	New	Arent Fox 1050 Conn Ave,NW 20036
Taylor, Angela	New	Interior Federal C U 1849 C St,NW#4045 20240
Taylor-Flores, Gail D.	Rpt	Finnegan Henderson et al 901 N Y Ave,NW 20001
Terry, Alicia A.	New	Kutak Rock 1101 Conn Ave,NW#1000 20036
Thomas, Gina	New	Total Management 1339 Green Ct,NW4thF1 20005
Thompson, Trina	New	McGuireWoods 1050 Conn Ave,NW#1200 20036
Tilghman, Mark W.	New	H O R L H O B B227 20515
Turner, Tammy L.	New	Saul Ewing 2600 Va Ave,NW#1000 20037
Villalobus, Maria P.	New	Bank Fund Staff F C U 1818 H St,NW 20433
Wade, Shomari	New	Boards & Commissions 1350 Pa Ave,NW#302 20004
Wallace, Maria G.	Rpt	H I P Health Plan 101 Const Ave,NW#310E 20001
Wang, Shi-Shi	New	Skadden Arps 1440 N Y Ave,NW 20005

Ware, Sr., James M.	New	1025 Crittenden St,NW 20017
Ware, Rochelle D.	New	1025 Crittenden St,NW 20017
Whidden, Charlotte J.	Rpt	Korn/Ferry International 1700 K St,NW#700 20006
White, Tonya Y.	New	1410 34 <sup>th</sup> St,SE 20020
Wilkes, Deborah J.	New	Natl Partnership/Women 1875 Conn Ave,NW#650 20009
Williams, Karen A.	New	Manna 828 Evarts St,NE 20018
Williams, Lisa M.	New	635 Morton Pl,NE 20002
Wilson, Geneva	Rpt	B&B Security Consultants 1219 Good Hope Rd,SE 20020
Wilson, Wanda	New	Wachovia Bank 5701 Conn Ave,NW 20015
Womack, Arleigh	New	1816 18 <sup>th</sup> St,SE 20020
Zak, Jessica	New	Skadden Arps 1440 N Y Ave,NW 20005

**SERVE DC****\*\*\*\*\*GRANT REVIEW OPPORTUNITY\*\*\*\*\*****Serve DC Seeks Grant Reviewers  
for 2007 Learn and Serve America School-Based Funding Competition**

Serve DC is seeking individuals to review grant proposals for the 2007 Learn and Serve America funding competition. This is an excellent opportunity to network with colleagues in the national service and education fields, learn more about the grant-making process, develop your own grant-writing skills, learn about exciting initiatives happening in local schools, and contribute your knowledge and experience to Serve DC's efforts to select high-quality service-learning programs for Learn and Serve America funding.

**What does a grant reviewer do?** Grant reviewers will help to evaluate funding applications for the 2007 Learn and Serve America School-Based grant competition. Reviewers read, score and evaluate proposals, and discuss their findings with a small group of fellow reviewers and a facilitator. The panel then comes to consensus to rank the proposals according to quality and recommend them for the next level of review.

**What qualifications should reviewers have?** Serve DC is looking for a diverse group of reviewers--males and females of all ages, races and ethnicities--that have experience with national service, education, or community-based programs, and grant writing. Serve DC would like to recruit reviewers experienced with service-learning, education, youth development, or national service. For example, reviewers may be community service practitioners, educators, students, youth participants, national service alumni, people working in foundations, or individuals working on public policy issues.

Reviewers must be comfortable reading a large volume of material in a short period of time and providing analysis in a small group.

**Can members currently serving in AmeriCorps or any other streams of service serve as reviewers?** No, you must have completed your AmeriCorps service before being selected as a reviewer. Alumni of the AmeriCorps programs are strongly encouraged to apply to serve as reviewers. AmeriCorps members must have completed service by August 1, 2007.

**Can people who work for a Corporation for National and Community Service-funded program serve as a reviewer?** Yes, people who work for organizations affiliated with other Learn and Serve America, AmeriCorps or national service programs may serve as reviewers. For instance, an individual who works for an organization that hosts a VISTA volunteer may review AmeriCorps applications. However, people cannot serve as a reviewer for the AmeriCorps programs if they work for an organization that is being considered for funding in this competition.

**What is the time commitment?** Reviewers must be available on **November 27, 2007 (5:00pm-6:30pm)** and **December 4, 2007 (2:30pm-6:00pm; this session may run later depending on the number of applications received)**. Reviewers will participate in an evening training session on November 27, 2007, and a consensus review session on December 4, 2007. The period between training and consensus session will be dedicated to reviewing and scoring the proposals.

**What are the benefits to reviewers?** The grant review experience is an excellent opportunity to meet and network with colleagues in the national service and service-learning fields; find out about exciting programming and trends in service-learning and youth programs; develop a deeper understanding of the grant-writing and

*Serve Your Country, Serve Your Community, Serve DC  
One Judiciary Square 441 4<sup>th</sup> Street, N.W. Suite 1140 N Washington, DC 20001 (202) 727-7925*



grant-making processes; and contribute experience to the selection of high-quality programs for the District of Columbia. This is a volunteer opportunity.

**How does one apply to become a reviewer?** To apply, please forward your resume to: Kristen Henry, Learn and Serve Coordinator, Serve DC, 441 4th Street, Suite 1140N, Washington, DC 20001 or e-mail [kristen.henry@dc.gov](mailto:kristen.henry@dc.gov), 202-727-8003. Please share this announcement with others who are qualified reviewers.

**Is there a deadline to apply?** We will begin reviewing resumes and contacting potential reviewers as resumes arrive. Please submit resumes as soon as possible, but no later than 5pm on **October 12, 2007** for consideration.

**What are the next steps after submitting a resume?** Serve DC will review resumes and begin contacting qualified applicants. We will check for conflicts of interest and confirm availability at that time.

*Thank you for your interest in serving as a reviewer and for sharing this announcement with others who may be interested. This is a very important part of our review process and our efforts to recommend high quality programs for funding.*

**DC STATE BOARD OF EDUCATION**

**NOTICE OF PUBLIC MEETING**

**State Board of Education Meeting – This is the second meeting of the  
State Board of Education with its new authority.**

Wednesday, October 17, 2007 – 5:30 pm  
Old Council Chambers  
441 4<sup>th</sup> Street, NW  
Washington, DC 20001  
Contact: Robert Boik (202)727-8805

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17383-B of the Lab School of Washington**, pursuant to 11 DCMR § 3129, for the minor modification of the Board of Zoning Adjustment's Condition No. 6 of Order No. 17383-A to allow for a two year extension to install the approved forty-three (43) angled parking spaces along Whitehaven Parkway, N.W. at an existing private school located at premises 4759 Reservoir Road, N.W. (Square 1372, Lot 25).

**MEETING DATE:** September 25, 2007

**DECISION DATE:** September 25, 2007

**SUMMARY ORDER ON REQUEST FOR MINOR MODIFICATION**

On August 21, 2007, the Lab School of Washington ("**Applicant**" or "**Lab School**") filed a Motion for Modification of Condition No. 6 in Order No. 17383-A and a waiver of the six (6) month requirement for filing under § 3129. The minor modification requested a nine (9) month extension of time to install the approved parking spaces required under Condition No. 6. This Condition states, in part, that the angled parking spaces must be in place within nine months of the effective date of Order No. 17383-A ("**Order**"), resulting in a deadline of November 12, 2007.

In order for the Board of Zoning Adjustment ("**Board**") to address this motion for modification, the Board granted a waiver of 11 DCMR § 3129.3, which requires the filing of request for modification within six months after the final date of an order. The Order became final on February 2, 2007, and therefore six months from that date was August 2, 2007. The Motion for Modification was filed one month later than required under Section 3129.3. The Board, in its discretion, granted a waiver of this filing requirement after determining that the Applicant refrained from filing until it was certain that the deadline for the installation of the spaces could not be met.

In its minor modification request, the Lab School noted that it was experiencing a delay in the permitting process and would be unable to complete the parking spaces in the allotted timeframe, by November 12, 2007. The unforeseen difficulty in obtaining the necessary permits prompted the Lab School to request this nine month extension of time in order to obtain these permits, making the new deadline August 12, 2008 for completion of the angled parking spaces.

Pursuant to 11 DCMR § 3129.7, the Board may only approve the modification if it is minor and does not change the material facts the Board relied upon in approving the application. The modification only seeks an extension of time for Condition No. 6 and nothing else. Granting the extension will not change the material facts that the Board relied upon in approving the application.

The Board is required under D.C. Official Code § 1-309.10(d)(3) to give great weight to the affected ANC's recommendation. On September 11, 2007, the Board received a resolution from

BZA APPLICATION NO. 17383-B  
PAGE NO. 2

ANC 3D that noted the ANC's full support (a vote of 6-0-0) for the minor modification request and the waiver of the six-month requirement for filing under 11 DCMR § 3129.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that findings of fact and conclusions of law accompany the Order of the Board. The waiver will not prejudice the rights of any party and is appropriate in this case.

For the reasons stated above, the Board concludes that the Applicant has met the requisite burden, and it is hereby **ORDERED** that the minor modification request be **GRANTED** subject to the revision of Condition No. 6 in Order No. 17383-A so that it now reads as follows:

6. Forty-three (43) new angled parking spaces must be in place along Whitehaven Parkway by August 12, 2008 for the School to be in compliance with § 206.3's requirement of ample parking. These spaces must be consistent with the plans prepared by VIKA Engineers (Exhibit 56), and with the provisions of Chapter 23 of the Zoning Regulations. There will be no structures or lighting relating to the parking spaces and the area will be paved in accordance with DDOT requirements.

**VOTE:**           **3-0-2**           (Ruthanne G. Miller, Curtis L. Etherly, Jr. to approve, Carol J. Mitten to approve by absentee ballot. The third Board member and the NCPC member not participating, not voting).

VOTE TAKEN ON SEPTEMBER 25, 2007

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this Order.

**FINAL DATE OF ORDER:** **OCT 03 2007**

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Appeal No. 17504 of JMM Corporation**, pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decisions of Administrative Law Judges, Department of Consumer and Regulatory Affairs ("DCRA"), sustaining two notices of civil infraction for operating in derogation of Certificate of Occupancy B176169 and revoking the aforementioned Certificate of Occupancy as well as a Mechanical Amusement License. The subject property is located in the DD/C-2-C District at premise 919 5<sup>th</sup> Street, N.W. (Square 516, Lot 825).

**HEARING DATES:** July 25, 2006, December 5, 2006, February 20, 2007  
**DECISION DATE:** March 6, 2007

**ORDER**

**PRELIMINARY MATTERS**

On March 17, 2006, JMM Corporation ("Appellant" or "JMM") filed this consolidated appeal with the Board of Zoning Adjustment ("Board" or "BZA"), alleging error in the decisions of two DCRA Administrative Law Judges ("ALJ").<sup>1</sup> The first of these decisions was rendered by ALJ Lennox J. Simon on July 2, 2002 (herein referred to as the "NOI decision"). The NOI decision found the Appellant liable for two infractions of 11 DCMR § 3202, *to wit*, operating outside the scope of its Certificate of Occupancy ("C of O"). The specific allegation was that JMM was operating a sexually oriented business establishment while its C of O only permitted a non-sexually oriented use. ALJ Simon fined JMM \$500 for each violation and an additional \$1,000 because JMM was found liable for the same offense within the same three year period.

The second decision being appealed here was rendered by ALJ Henry W. McCoy on December 6, 2002 (herein referred to as the "C of O decision"). The C of O decision revoked the Appellant's C of O for the subject property and the Appellant's Mechanical Amusement License, also for the subject property. The C of O was revoked on the same grounds as the NOI – for operation outside its scope – and also because the C of O did not authorize the accessory mechanical amusement machine use that was occurring on the premises. ALJ McCoy revoked the Mechanical Amusement License pursuant to D.C. Official Code § 47-2844 (a) (2001) in the interest of public decency based on the content displayed on the mechanical amusement machines and its effect on the neighborhood.

Advisory Neighborhood Commission ("ANC") 6C, the ANC within which the subject property is located is automatically a party to this appeal by virtue of 11 DCMR § 3199.1, definition of

---

<sup>1</sup>The appeals of the two ALJ decisions were consolidated before this Board and treated as one appeal, No. 17504.

**BZA APPEAL NO. 17504****PAGE NO. 2**

"Party," subsection (a). The ANC submitted two letters, dated July 17, 2006, and October 16, 2006, stating the ANC's continuing unanimous opposition to the appeal.

The appeals were originally filed in the wrong forum, which led to the District of Columbia Court of Appeals Memorandum Opinion and Judgment dated February 15, 2006, authorizing the filing of the appeals with this Board. As noted, this appeal was filed March 17, 2006 and a hearing was scheduled for July 25, 2006. The hearing was twice postponed at JMM's request and with the consent of DCRA. The first continuance was granted because no transcript or foreign language interpreter were available and the second continuance was granted due to the illness of JMM's owner, who wished to testify. On February 20, 2007, the Board conducted a limited hearing. At the decision meeting on March 6, 2007, the Board voted 3-0-2 to deny the appeal.

As it had done in the two proceedings below, the Appellant contended that the Zoning Regulations regulating the location of sexually-oriented business establishments ("SOBE") violate the Constitution of the United States both facially and as applied to businesses, like JMM, that sell sexually explicit material. In making this argument, JMM does not concede that it is a SOBE, but claims that the definition of the use is so vague that it and similar enterprises are unable to discern whether or not they fall within the definition's purview.

Like Administrative Law Judges Simon and McCoy, this Board concludes that it has no jurisdiction to decide questions of constitutionality, as its authority is limited to hearing appeals alleging error in the administration and enforcement of the Zoning Regulations. D.C. Official Code § 6-541.07(g)(1). Nor does the Board have the authority to amend any Zoning Regulation. *Id.* at § 6-641.07(e). *See also*, Board of Zoning Adjustment Order No. 13967, *Appeal of California Steak House, Inc.* (wherein the Board recognizes that it has no authority to declare unconstitutional any provisions of the Zoning Regulations.)

Nevertheless, the Board was advised by the Office of the Attorney General for the District of Columbia that it must afford the Appellant an opportunity to make a record with respect to its "as applied" constitutional claim for the purposes of a subsequent appeal. The Board afforded the Appellant this opportunity and will not further address the contention.

The portion of its appeal that is within this Board's jurisdiction to decide is whether Appellant's mechanical amusement machines, which Appellant concedes depict "very explicit sexually activity", and the various "sex toys" and other "adult" materials it sells represent such a substantial portion of its stock and trade so as to fall within the definition of a sexually-oriented business establishment. Appellant contends that these machines and materials are not a "substantial" portion of the business. Because the Board concludes otherwise, and for the reasons stated below, the appeal is denied.

The Board's scope of review differs as to the two decisions before it. Because the NOI decision stemmed from a hearing conducted in accordance with § 203 of the Department of Consumer

**BZA APPEAL NO. 17504****PAGE NO. 3**

and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1803.03 (2001)) ("Civil Infraction Act"), the Board's review is limited to "the record established before the administrative law judge." Civil Infraction Act § 303, D.C. Official Code § 2-1803.03. Pursuant to § 303, the Board must "set aside any administrative law judge or attorney examiner order that is without observance of procedure required by law or regulations ... or any administrative law judge or attorney examiner order that is unsupported by a preponderance of the evidence on the record." *Id.*

In contrast, there is no similar restriction on the Board's review of the C of O decision. The Building Code provides that

Any person aggrieved by the action of the [DCRA] Director ...revoking a Certificate of Occupancy may appeal the action to the Board of Zoning Adjustment, pursuant to D.C. Official Code Sec. 6-641.09 (2001), and the District of Columbia Zoning Regulations.

12A DCMR § 110.6.<sup>2</sup>

Notwithstanding this provision, DCRA provided the Appellant with a full hearing on the proposed revocation before Administrative Law Judge McCoy. Nonetheless this Board undertook a *de novo* review of the facts upon which the revocation was based, because an appeal of a certificate of occupancy revocation is subject to different appellate procedures than those governing the review of an ALJ's order affirming a civil infraction fine. *See, Kuri Bros., Inc. v. District of Columbia Bd. of Zoning Adjustment*, 891 A.2d 241, 247 (D.C. 2006). Accordingly, pursuant to its authority under Section 8 of the Zoning Act of 1938 D.C. Official Code § 6-641.07(f) and 11 DCMR § 3100.2 to hear appeals based in whole or part on any Zoning Regulations or Zoning Map, the Board applied the hearing procedures set forth in the Zoning Regulations at 11 DCMR §§ 3117 and 3119 for its review of the revocation decision.

At the hearing, Appellant, for the most part, chose to rely on the record created by ALJ McCoy in the C of O decision. However, because no transcript could be made of that proceeding, the parties stipulated that the facts adduced in the NOI proceeding were the same as those adduced in the C of O proceeding, BZA Hearing Transcript at 181, lines 12-22, and 182, lines 1-4. In addition, Appellant was permitted to ask questions it claimed were asked and answered (but not transcribed) during the C of O proceeding, and to ask questions it claimed were relevant to its constitutional claims. The Appellant also reiterated several times that Fun Fair Video is being operated in the same manner in 2007 as it was operated at the time of the C of O and NOI proceedings.

---

<sup>2</sup>This and all other Building Code provisions cited in herein were codified in Chapter 16 of DCMR Title 12A when the notices were issued and the decisions rendered. These subsections were later re-codified, without change, to Chapter 10 of that same DCMR title by virtue of a Notice of Final Rulemaking published in *the D.C. Register* on January 8, 2004 at 51 DCR 368.

**BZA APPEAL NO. 17504****PAGE NO. 4**

Although the Findings of Fact that follow are primarily intended to support the Board's legal conclusions reached as part of its *de novo* review of the C of O decision, the findings that do not refer to observations made in 2006 also reflect the preponderance of evidence in the record that supported ALJ Simon's legal conclusions in the NOI decision, for which this Board undertook a record review.

**FINDINGS OF FACT**The subject property and Certificate of Occupancy.

1. JMM Corporation operates a retail business known as "Fun Fair Video" at address 919 5th Street, N.W. ("the subject property").
2. The subject property is located in a DD/C-2-C<sup>3</sup> zone district in Square 516, Lot 825.
3. JMM Corporation is owned by Jose Montiel, who also operates Fun Fair Video.
4. On November 19, 1996, the Appellant was issued C of O No. B176169, permitting it to operate a video membership store. The C of O specifically noted that the store was "not sexually oriented" and did not authorize mechanical amusement machines as an accessory use.
5. JMM concedes that "not sexually oriented" signified that JMM had no authority to operate a sexually-oriented business establishment, or "SOBE," as that term is defined at 11 DCMR 199.1. BZA hearing Transcript at 147, line 22 through 148, line 6.

The first Notice of Infraction

6. On April 7, 2000, DCRA issued to the Appellant Notice of Infraction ("NOI") No. 42251, in the amount of \$500.00.
7. A hearing was held on NOI No. 42251, and on June 20, 2000, a Decision and Order was issued by a DCRA ALJ finding the Appellant liable for operating Fun Fair Video in a manner that did not conform to its C of O No. B176169. Specifically, Appellant was found liable for operating a sexually-oriented business in violation of its C of O.
8. As a result of the June 20, 2000 Decision and Order, Appellant was ordered to pay a fine of \$540.00.

Events leading to the issuance of the Notice of Infraction decision

9. At some point in late August/early September, 2001, DCRA again determined that a significant portion of Appellant's stock in trade was sexually-oriented (*See*, 11 DCMR §

---

<sup>3</sup>The subject property is mapped within the Downtown Development Overlay District ("DD"), but this fact has no bearing on, or particular relevance to, this appeal. Therefore, hereinafter, the "DD" designation has been dropped in references to the Appellant's zone district.



## BZA APPEAL NO. 17504

## PAGE NO. 5

- 199.1, definition of SOBE) and that C of O No. B176169 did not permit the operation of the mechanical amusement machines observed on the premises.
10. On September 9, 2001, DCRA issued NOI No. 028120 to Appellant for operating its business in a manner that did not conform to its C of O.
  11. On September 13, 2001, DCRA issued another NOI, No. 035446 to the Appellant for operating its business in a manner that did not conform to its C of O.
  12. ALJ Lennox J. Simon held hearings on March 5th and 8th, 2002, on the two NOIs, and on July 2, 2002 issued the NOI decision upholding them.
  13. The NOI decision ordered the Appellant to pay a \$500.00 fine for each of the NOIs and also assessed another \$1,000.00 fine because Appellant was found to be a recidivist.

Events leading to the issuance of the C of O decision

14. On February 27, 2002, DCRA served the Appellant with a Notice of Intent to Revoke its C of O and a Notice of Intent to Revoke its Mechanical Amusement License.
15. DCRA held hearings before the agency's Office of Adjudications on both the C of O revocation notice<sup>4</sup> and the notice to revoke its Mechanical Amusement License on July 29<sup>th</sup> and 30<sup>th</sup>, 2002, resulting in the December 6, 2002 C of O decision.
16. The C of O decision revoked the C of O and revoked Appellant's Mechanical Amusement License No. 31005263.

The Court of Appeals decision

17. The NOI decision indicated that general appeals of ALJ decisions must be filed with the Board of Appeals and Review ("BAR"), although if the matter concerned "a violation of the Zoning Regulations," it should be appealed to the Board of Zoning Adjustment.
18. The C of O decision stated that JMM only had a right of appeal to the BAR.
19. JMM appealed both decisions to the BAR.
20. The BAR dismissed both appeals for lack of jurisdiction over errors alleged in the enforcement of the Zoning Regulations.
21. The District of Columbia Court of Appeals ("DCCA"), through a Memorandum Order and Judgment dated February 15, 2006, affirmed both dismissals without prejudice to the Appellant filing an appeal before this Board.

---

<sup>4</sup> "Neither the zoning statute nor the regulations governing C of O revocations expressly entitled [Appellant] to a hearing before the DCRA on the revocation of its C of O." *Kuri, supra*, 891 A.2d at 245 (DC 2006). The Kuri opinion surmised that DCRA offered this type of hearing opportunity "to comply with the requirements of due process". *Id.*

## BZA APPEAL NO. 17504

## PAGE NO. 6

22. This Appeal was filed on March 17, 2006.

Appellant's sexually explicit entertainment and materials

23. Appellant concedes that Fun Fair Video/JMM "sell[s] erotic entertainment, including videos that show very explicit sexual activity." BZA Hearing Transcript at 148, lines 9-12.

24. The Appellant did not dispute that Fun Fair Video displayed and sold sex toys and accessories, such as dildos depicting the human penis, vibrators, body oils, personal lubricants, and condoms, as found by both the NOI and C of O decisions. *See*, Exhibit No. 4, Finding of Fact No. 1, and Exhibit No. 5, and Finding of Fact No. 5. *See also*, Exhibit No. 5, at 10.

25. Appellant's witness, William Vain, photographed the interior of Fun Fair Video.

26. One photograph (No. FF1-14) depicts a sign that appears to be posted next to the door of one of the booths. The sign reads: "8 Different Video Selections of Continuous Adult Entertainment." Exhibit No. 33A.

27. Another of Mr. Vain's photographs (No. FF1-8) shows a sign on a closed door within Fun Fair Video that reads: "X-Rated Videos in this Room." Exhibit No. 33A.

28. Sergeant Mark A. Gilky, Metropolitan Police Department, Detective Grade 1, Supervisor, Prostitution Enforcement Unit, testified that

he had been inside the subject premises, saw the 'pornographic' tapes for sale and rental, saw the sex toys on display for sale, observed the video booths and noticed activity in the booths, observed what appeared to be semen on the floor of one of the booths, and observed condom wrappers on the floors of the booths and in the aisle outside the booths ... [and] ... he did observe a male individual masturbating in one of the booths.

Exhibit No. 5, at 11. *See also* Exhibit No. 4, Finding of Fact No. 5.

29. There were 10 video booths in the rear area accessible via a door fitted with an electronic lock controlled by one of Appellant's employees. These video booths contained monitors showing adult/sexually-explicit videos for a fee of \$1.00 for each five minutes of playing time. Exhibit No. 4 (NOI decision), Finding of Fact No. 1, and Exhibit No. 5 (C of O decision), Findings of Fact Nos. 4 & 12.

30. The existence of the monitors in the video booths and their showing of sexually-explicit content were stipulated to by Appellant's attorney. *See*, BZA Hearing Transcript at 276, line 22, and 277, lines 1-2.

31. On August 22, 2001, DCRA's Office of Compliance conducted an on-site investigation of Fun Fair Video and the DCRA inspector observed 153 sexual accessories for sale and 10 video booths with monitors showing adult/sexually-explicit content.

**BZA APPEAL NO. 17504****PAGE NO. 7**

32. On September 1, 2001, a DCRA inspector conducted a second unannounced inspection of the Appellant's business premise and observed patrons seeking booth rentals or proceeding directly to an adult movie and "sex toy" section at the rear of the premise.
33. As of September 21, 2001, the Appellant had 1,966 general viewing VHS/DVDs and 544 adult/sexually-oriented VHS/DVDs in its inventory and available for rental or sale. *See*, Exhibit No. 4, Finding of Fact No. 4, and Exhibit No. 5, at 8.
34. On December 14, 2001, an officer of the D.C. Metropolitan Police Department observed a male patron inside Fun Fair Video watching an adult/sexually explicit video in one of the Appellant's video booths. As the door was partially open, the police officer observed that the male patron was masturbating.
35. The operation of Fun Fair Video has not substantially changed between 2001 and the date of the hearing. *See, e.g.*, BZA Hearing Transcript at 193, lines 1-2.
36. In November, 2006, an officer of the Metropolitan Police Department visited Fun Fair Video and observed, in the "back" of the store, but in an area accessible to customers, different types of personal lubrication for sale, sex toys, adult videos, condoms, used and unused, and drug paraphernalia. *See*, BZA Hearing Transcript at 318, lines 16-21; 320, line 22; and 321, lines 1-4.
37. The Zoning Administrator ("ZA") visited Fun Fair Video on December 3, 2006, and personally observed Fun Fair Video's 10 video monitors. Such monitors were "show[ing] acts of human masturbation, sexual intercourse, sexual stimulation and arousal" as well as "fondling," "other erotic touching of human genitalia and so forth...." *See*, BZA Hearing Transcript at 245, lines 19-22, and 246, line 1.
38. On December 6, 2006, an undercover DCRA inspector visited Fun Fair Video and observed, in the "back" of the store, but in an area accessible to customers, "hundreds" of videos of a sexual nature available for rental or sale. *See*, BZA Hearing Transcript at 296, lines 6-10.

Appellant's floor areas devoted to the sale and viewing of sexually explicit entertainment and materials

39. The approximate total floor area of Fun Fair Video is 1,522.5 square feet. *See*, Exhibit No. 33, statement #4, and Exhibit No. 33C.
40. The adult video section occupied approximately 100 square feet. The rear area devoted to the adult video booths, including all the area between an attendant-controlled locked access door and the front wall of the management office, situated at the very back of the premises, was approximately 488.25 square feet. Therefore, a total of approximately 588.25 square feet was devoted to adult-only areas. *See*, Exhibit No. 33, statement #4, and Exhibit No. 33C.
41. The approximate total floor area of Fun Fair Video devoted too "General Video/All Ages," including the area occupied by the Customer Service Desk, was 533.22 square feet. *See*, Exhibit No. 33, statement #4, and Exhibit No. 33C.

**BZA APPEAL NO. 17504****PAGE NO. 8**

42. The rest of the floor area of Fun Fair Video, approximately 400 square feet, all located at the rear of the premise, was taken up by a video control and storage room, a management office, a custodial closet, a restroom, and an open area leading to a rear emergency exit. *See*, Exhibit No. 33, statement #4, and Exhibit No. 33C.

Absence of Accessory Use Authorization on C of O

43. On April 28, 1999, the Appellant obtained from DCRA Mechanical Amusement License No. 31005263, permitting it to operate video booths at the subject property. The license was subsequently renewed, and would have expired on May 31, 2003.
44. C of O No. B176169 was never amended to add "mechanical amusement machine" as an accessory use. *See*, Exhibit No. 5, at 8 & 10, and Exhibit No. 4, at 3 (Summary of the Evidence).

**CONCLUSIONS OF LAW**

As noted immediately prior to the Findings of Fact, this consolidated proceeding involves two appeals with two different standards of review. The first appeal is of an ALJ's order sustaining two Notices of Infraction for the same offense committed on two different dates. The NOIs were issued pursuant to the Civil Infraction Act. The second is an ALJ decision revoking Appellant's Certificate of Occupancy.

As to the NOI decision, the Board may only "set aside any administrative law judge or attorney examiner order that is without observance of procedure required by law or regulations ... or any administrative law judge or attorney examiner order that is unsupported by a preponderance of the evidence on the record." Civil Infraction Act § 303, D.C. Official Code § 2-1803.03. In contrast, because the Board's review of the C of O decision is *de novo*, it is not bound to accept any of the evidentiary conclusions reached by ALJ McCoy.

As to what facts the Board may consider, § 303 of the Civil Infraction act limits the Board's purview of the NOI decision issued by ALJ Simon to "the record established before the administrative law judge". Similarly, the Board generally does not consider facts that were not known to the District official (in this case ALJ McCoy) whose decision is undergoing a *de novo* review, but has done so in the past where, as here, the evidence was proffered by the Appellant and "proves useful in 'confirming our view as to the proper disposition of this case,' *George Washington University v. D. C. Board of Zoning Adjustment*, 83 1 A.2d 921,945 n22 (2003)." *Appeal No. 16998 of Advisory Neighborhood Commission 5B* ((March 31, 2004). *Affirmed*, *Bannum, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 894 A.2d 423 (D.C. 2006).

Appellant's post 2002 evidence, which concerned aspects of the Appellant's business observed in the months leading to the hearing on this appeal, does indeed confirm our view that Judge Simon correctly described Fun Fair Video as a "quintessential sexual oriented business."

**BZA APPEAL NO. 17504****PAGE NO. 9**

Nevertheless, the facts adduced in his NOI decision, which have been stipulated to be the same as were adduced in the C of O decision, suffice to sustain both decisions and the Notices that the decisions upheld.

*Validity of Notices based upon operating outside the scope of C of O*

Subsection 3202.1 of the Zoning Regulations provides that

no person shall use any structure, land, or part of any structure or land for any purpose other than a one-family dwelling until a certificate of occupancy has been issued to that person stating that the use complies with the provisions of this title and the D.C. Construction Code, Title 12 DCMR.

The Director of DCRA is authorized to revoke a certificate of occupancy “if the actual occupancy does not conform with that permitted.” 12A DCMR 110.5.1. Subsection 3312 of Title 15 DCMR sets forth the Civil Infraction Act fines for violating the Zoning Regulations. Subsection 3202.1 provides in part:

3202.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 11 DCMR § 3203 (failure to obtain a certificate of occupancy or use beyond scope of certificate of occupancy); ...

The definition of sexually-oriented business establishment is as follows:

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, films, materials, and articles, or an establishment that presents as a substantial or significant portion of its activity, live performances, films, or other materials, that are distinguished or characterized by their emphasis on matters depicting, describing, or related to *specified sexual activities* and *specified anatomical areas*.

These establishments may include, but are not limited to, bookstores, newsstands, theaters, and amusement enterprises. If an establishment is a sexually-oriented business establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title. (Emphasis added.)

11 DCMR § 199.1, definition of “Sexually-oriented business establishment.” The Zoning Regulations go on to separately define the two phrases italicized above – “specified sexual activities,” and “specified anatomical areas.” These separate definitions help to bring greater specificity to the overall definition of SOBE, and are as follows:

Specified anatomical areas – parts of the human body as follows:

## BZA APPEAL NO. 17504

## PAGE NO. 10

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (b) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities – the following activities:

- (a) Acts of human masturbation, sexual intercourse, sexual stimulation or arousal, sodomy, or bestiality; and
- (b) Fondling or other erotic touching of human genitals, pubic region, buttock, or breast.

11 DCMR § 199.1, definitions of “Specified anatomical areas,” and “Specified sexual activities.”

It follows, therefore, that if Appellant’s Fun Fair Video establishment had “as a substantial or significant portion of its stock in trade, ... periodicals, films, [or] materials, ... that are ... characterized by their emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas,” then it is a SOBE.

The Appellant concedes that it sells erotic entertainment and has on its premises video monitor booths showing explicit sexual activity. The videos shown by these monitors depict “specified sexual activities” and “specified anatomical areas” as defined at 11 DCMR § 199.1. Moreover, the Findings of Fact recited above that describe JMM’s operations preceding the issuances of the NOI and C of O decisions provide abundant proof that part of its stock and trade consisted of materials that fall within the SOBE definitions.

The only inquiry is whether that portion of Fun Fair Video’s stock in trade which emphasizes depictions of specified anatomical areas and specified sexual activities constitutes a “substantial” or “significant” portion of its overall stock in trade. Neither “stock in trade,” nor “substantial,” nor “significant” are defined in the Zoning Regulations, but they are all defined in *Webster’s Dictionary*. See, 11 DCMR § 199.2(g) *Webster’s Dictionary* defines “stock in trade” as follows:

the equipment necessary to or used in the conduct of a trade or business:

as (a): the goods kept for sale by a shopkeeper (b): the fittings and appliances of a workman (c): the aggregate of things necessary to carry on a business.

*Webster’s Third International Dictionary* (Unabridged) (1986). The phrase “stock-in-trade” broadly encompasses the aggregate of all things necessary to conduct a business, including mechanical equipment, as well as inventory. Based on the evidence presented in this appeal, the Board interprets the phrase to include all income-producing assets of Fun Fair Video, including its entire VHS/DVD inventory, its inventory of sex accessories and sex toys, and its video monitor booths.

## BZA APPEAL NO. 17504

## PAGE NO. 11

The relevant portions of the definitions of “substantial” and “significant” from *Webster’s Dictionary* are as follow: “substantial” – “considerable in amount, value, or worth; of or relating to the main part of something,” and “significant” – “having or likely to have influence or effect: deserving to be considered: important, weighty, notable.” *Id.*

The sale or rental of VHS/DVDs emphasizing specified anatomical areas and specified sexual activities, as well as the sale of time to watch such VHS/DVDs on the video monitors in the 10 booths, constituted an important part of Appellant’s business, and, indeed, appeared to be the main part of that business. Fun Fair Video had an inventory of both sexually-oriented and non-sexually-oriented VHS/DVDs, but the 10 video booth monitors show only the former.

The Board credits the DCRA’s inspector, who concluded that at the time relevant here, sexually-oriented VHS/DVDs comprised between one-quarter and one-third of the total VHS/DVD inventory. Appellant’s witness counted the total inventory several months later and claimed that the sexually-oriented VHS/DVDs comprised between one-eighth and one-ninth of the total inventory. Even if the numbers claimed by Appellant’s witness are correct, that percentage of sexually-oriented inventory, particularly coupled with the presence of the exclusively sexually-oriented video monitor booths and the sale of sex toys and accessories, is sufficient to convince the Board that material emphasizing specified anatomical areas and specified sexual activities constituted a substantial part of Appellant’s stock in trade.

The Board’s conclusion that Fun Fair Video was an SOBE is also based in part on the allocation of floor space within the premise of Fun Fair Video. *See*, Exhibit No. 33C. Because Appellant did not provide all of the necessary numbers the calculations are approximate. Of a total of approximately 1,521.5 square feet, approximately 588.25 square feet or one-third of the floor space is devoted to adult-only areas, the majority of which are located behind the attendant-controlled locked access door. These 588.25 square feet contain the sexually-oriented video inventory and the 10 video booths and areas necessary and accessory to these booths, such as the aisle way between the booths. An area of approximately 50 square feet less – 533.22 square feet – contains general viewing videos and is accessible to all customers. The rest of the total of 1,521.5 square feet – approximately 400 square feet -- is devoted to managerial, custodial, and storage uses, as well as an open area leading to a rear emergency exit and a restroom. From these numbers, it is clear that a considerable portion of floor area within Fun Fair Video is given over to sexually-oriented inventory and video booths, or space accessory to these sexually-oriented uses.

Finally, Appellant’s argument suggests that DCRA should have followed the criteria discussed in an eight-page opinion issued in 1998 by then-Acting Zoning Administrator Gladys Hicks attempting to further clarify the definition of a SOBE. Hicks and/or her staff performed some research into what attributes of a business lead to its being found to be a SOBE in other jurisdictions and determined certain numerical standards to guide DCRA, and presumably others, in determining whether a business was or was not a SOBE. These “standards” were only guides

## BZA APPEAL NO. 17504

## PAGE NO. 12

and interpretations and could not legally bind DCRA, the public or future Zoning Administrators.

Only the Zoning Commission has the authority to set such binding standards. Section 492 (a) of the District Charter amended § 1 of the Zoning Act of 1920 to provide that "The Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law." D.C. Official Code § 6-621.01 (e). "Thus, the Home Rule Act explicitly provides that the Zoning Commission is the exclusive agency vested with power to enact zoning regulations for the District of Columbia." *Tenley & Cleveland Park Emergency Committee v. District of Columbia Bd. of Zoning Adjustment*, 550 A.2d 331, 340 (D.C.1988), *cert. denied*, 489 U.S. 1082 (1989). That means that only the Zoning Commission may amend a Zoning Regulation, including the definitions contained therein. As the Court of Appeals has repeatedly stated,

even if an agency charged with implementing a regulation - which in this case, we note, is *not* the agency that wrote it - perceives it to be deficient or imperfect, it is not the agency's (or this court's) prerogative "to rewrite the statute [or regulation]...." - *Moore v. Gaither*, 767 A.2d 278, 285 (D.C. 2001) (internal punctuation omitted)

*Chagnon v. D.C. Bd. of Zoning Adjustment*, 844 A.2d 345, 348-349 (D.C. 2004)

In short, the Hicks Opinion has no bearing on this appeal.

The Board finds that there was a preponderance of evidence in the record to support ALJ Simon's conclusion and a preponderance of evidence in this Board's record to support its conclusion that Appellant's Fun Fair Video establishment falls within the plain meaning of "sexually-oriented business establishment" as set forth in 11 DCMR § 199.1. It has, as a substantial or significant portion of its stock in trade, films and materials that emphasize depictions of, and/or are related to, specified sexual activities and specified anatomical areas. Since it falls within the definition of a SOBE, it is a SOBE, and cannot be deemed to constitute any other use permitted by the Zoning Regulations. 11 DCMR § 199.1, definition of "Sexually-oriented business establishment," last sentence.

Because Appellant's C of O limits its use to one that is not sexually oriented, the Applicant was operating outside of its scope as of the date that the Notices of Infraction and Intent to Revoke were issued. Both notices, and the two decisions that sustained them, are affirmed, and the appeal is denied on this ground.

*Revocation of C of O due to lack of endorsement for accessory use*

Although Appellant does not challenge this portion of the C of O decision, the Board nevertheless notes that § 722.1 of the Zoning Regulations (Title 11 DCMR) provides that a



**BZA APPEAL NO. 17504****PAGE NO. 13**

“mechanical amusement machine shall be permitted in a C-2 District as an accessory use incidental to the uses permitted” as a matter of right and certain special exceptions. Pursuant to 11 DCMR 3202.1, Appellant could not lawfully engage in this accessory use unless it was stated on its C of O. Since it was not so stated, this use was beyond the scope of the C of O and therefore revocation of the C of O and the issuance of the NOI were lawful and are upheld on this ground as well.

*Revocation of Mechanical Amusement License*<sup>5</sup>

D.C. Official Code § 47-2844 (a) authorizes the Mayor to “revoke any license issued hereunder when, in his judgment, such is deemed desirable in the interest of public decency or the protection of lives, limbs, health, comfort, and quiet of the citizens of the District of Columbia, or for any other reason he may deem sufficient.” Based upon the record before him, ALJ McCoy concluded that this standard had been met. The Board agrees with ALJ McCoy that the evidence before him “demonstrated that public decency was compromised by the activity in and around Fun Fair Video and that revocation of [JMM’s] business license for the video booths would serve to protect the comfort and quiet of those neighboring District citizens who call that general vicinity home.” C of O decision at 13.

As to Appellant’s claim that the ALJ had no authority to revoke the license, the Mayor’s authority to revoke was delegated to DCRA and by offering JMM an opportunity for a hearing before revoking the license, DCRA had designated ALJ McCoy as the DCRA official with the responsibility to take the final action.

**CONCLUSION**

For the reasons stated above, the Board concludes that the Appellant did not meet its burden of demonstrating that DCRA erred in revoking Appellant’s C of O or Mechanical Amusement License. Nor did Appellant prove that ALJ Simon’s order was deficient in any of the ways that would have required this Board to set it aside.

Therefore, it is hereby **ORDERED** that this appeal be **DENIED**.

**VOTE:**       **3-0-2** (Geoffrey H. Griffis, Ruthanne G. Miller, and Curtis L. Etherly, Jr., to deny. No fourth member and no Zoning Commission member participating or voting.)

A majority of the Board has approved the issuance of this Decision and Order and authorized the undersigned to execute the Decision and Order on his or her behalf.

---

<sup>5</sup> While this aspect of the Appeal does not allege an error made in the enforcement of the Zoning Regulations., the Board considered the issue as requested by the District of Columbia Court of Appeals.

**BZA APPEAL NO. 17504****PAGE NO. 14****FINAL DATE OF ORDER: OCT 01 2007**

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17662 of Doug Damron**, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of a spiral staircase from the second floor to a new roof deck serving a flat (two-family) row dwelling under section 223, not meeting the court requirements (section 406), in the R-4 District at premises 936 S Street, N.W. (Square 363, Lot 73).

**HEARING DATE:** September 25, 2007

**DECISION DATE:** September 25, 2007 (Bench Decision)

**DISMISSAL ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

**BACKGROUND**

The subject Zoning Administrator reviewed application was filed with the Board of Zoning Adjustment (Board) on May 2, 2007. Pursuant to 11 DCMR 3113.3, notice of the September 25, 2007 public hearing was sent to the Applicant, all owners of property within 200 feet of the subject site, the Advisory Neighborhood Commission (ANC) 2C and the District of Columbia Office of Planning (OP). The Applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect. The Office of Planning submitted a report in support of the application. Advisory Neighborhood Commission 2C did not participate in the application. No parties appeared at the public hearing in opposition to this application.

The application is a request under 11 DCMR § 3104.1, for a special exception pursuant to section 223, based on a Zoning Administrator determination that the project did not comply with the closed court requirements under section 406. The Board, after careful consideration of the evidence presented in the record of this case, concludes that the above-cited relief is not needed to allow the proposed staircase addition.

BZA APPLICATION NO. 17662

PAGE NO. 2

The Board found the following with respect to the relief being sought in this application:

1. The Zoning Administrator's referral letter states that the relief pursuant to § 223, is necessary "to permit aggregate increase in non-conformity of existing open court, becoming a closed court". (Exhibit No. 4)
2. The existing open court on the subject property is nonconforming as to width.
3. A closed court is defined in relevant part, as follows: A court surrounded on all sides by the exterior walls of a building, or by exterior walls of a building and side or rear lot lines. (11 DCMR § 199.1 definition of Court, Closed)
4. The staircase proposed is an open spiral staircase, which does not constitute an "exterior wall" or "side or rear lot line"; therefore, the court is not surrounded on all sides so as to become a closed court.
5. The existence of the spiral staircase does not change the open court to a closed court.
6. The court remains an open nonconforming court and there appears to be no increase in nonconformity.
7. Therefore, no relief is needed pursuant to §§ 223 and 2001.3.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **DISMISSED** and as such authorizes the Department of Consumer and Regulatory Affairs to issue a building permit to the Applicant pursuant to Exhibit 8 – Plans.

**Board's Motion to Dismiss the Application:**

**VOTE:**        5-0-0        (Ruthanne G. Miller, Gregory N. Jeffries, Curtis L. Etherly, Jr., Marc D. Loud and Shane L. Dettman to Dismiss).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

BZA APPLICATION NO. 17662

PAGE NO. 3

**FINAL DATE OF ORDER: SEP 26 2007**

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT. rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17664 of 2321 Shannon Place, S.E. LLC**, pursuant to 11 DCMR § 3102.2 for a variance from the minimum side yard requirement of § 405.9 and pursuant to 11 DCMR § 3104.1, for a special exception to construct three (3) new single-family dwellings under section 353 in the R-5-A District at premises 2321 Shannon Place, S.E. (Square 5787, Lot 812).

Note: The application was amended to include a variance from the side yard requirements and the plans were revised to reduce the number of dwellings being provided from five (5) single family dwellings to three (3) row dwellings.

**HEARING DATE:** September 25, 2007

**DECISION DATE:** October 2, 2007

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 8A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. ANC 8A submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 353. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof,

**BZA APPLICATION NO. 17664**  
**PAGE NO. 2**

pursuant to 11 DCMR §§ 3104.1 and 353, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Based upon the record before the Board and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 405.9 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to revised plans, Exhibit No. 37 of the record, be **GRANTED**.

**VOTE:**       **5-0-0** (Ruthanne G. Miller, Marc D. Loud, Curtis L. Etherly, Jr. and Shane L. Dettman to approve; Gregory N. Jeffries to approve by absentee vote.

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:**     OCT 03 2007    

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND

BZA APPLICATION NO. 17664  
PAGE NO. 3

REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

TWR



**ZONING COMMISSION ORDER NO. 06-01**  
**Z.C. CASE NO. 06-01**  
**Consolidated Planned Unit Development and Related Map Amendment for**  
**Property Located in the 300 Block of H Street, N.E.**  
**Square 776, Lots 9, 25-31, 51-53, 800 and 821**  
**December 11, 2006**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on July 6, 2006, to consider an application from Steuart Investment Company and Steuart-H Street LLC for consolidated review and approval of a planned unit development ("PUD") and a related zoning map amendment from C-2-A to the C-2-B District for a portion of the PUD site. The Commission considered the application pursuant to Chapters 24 and 30 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application, subject to conditions.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. On January 6, 2006, Steuart Investment Company and Steuart-H Street LLC (collectively, the "Applicant"), filed an application for consolidated review and approval of a planned unit development for Square 776, Lots 9, 25-31, 51-53, 800 and 821 and the portions of the alleys proposed to be closed that currently run through Square 776, including a related request to amend the Zoning Map from C-2-A to the C-2-B District for a portion of the PUD site.
2. After proper notice, the Commission held a hearing on the applications on July 6, 2006. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6C, the ANC within which the property is located.
3. The Applicant presented four witnesses, Guy Steuart of the Steuart Investment Company, Maurice Walters, an architect with the firm of Torti Gallas and Partners, Martin Wells, a traffic engineer at Wells & Associates, and Steven Sher, a land planner with Holland &

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 2

Knight. Messrs. Walters, Wells, and Sher were accepted as experts in their respective fields.

4. Three persons testified in support of the project: Anwar Saleem, chairperson of H Street Main Street, and Todd Davis and Mike Bober, residents of the area. The record contained eight letters of support, including letters from Councilmember Sharon Ambrose, the Capitol Hill Restoration Society, the H Street Community Development Corporation, and Near Northeast Citizens Against Crime and Drugs.
5. There were no parties in opposition to the application. Seven persons testified in opposition. The record contained two letters of opposition.
6. ANC 6C submitted a report dated July 6, 2006 indicating its support for approval of the application. Commissioners Mark Dixon and Anthony Rivera provided testimony in support of the application at the public hearing.
7. At its public meeting on October 16, 2006, the Zoning Commission took proposed action by a vote of 5-0-0 to approve, subject to conditions, the application and plans that were submitted to the record.
8. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated October 26, 2006, found the proposed PUD would not affect the federal interests in the National Capital, or be inconsistent with the Comprehensive Plan for the National Capital.
9. The Zoning Commission took final action to approve the applications, subject to conditions, on December 11, 2006 by a vote of 5-0-0.

#### **PUD Project**

10. The Applicant proposes to construct a mixed-use development containing 210 to 250 apartment units and approximately 60,500 square feet of gross floor area devoted to retail and service uses, including a grocery store of approximately 45,000 square feet plus additional loading and support space (the "Project"). The building will have a maximum height of 90 feet, stepped down on the north and east sides. The total gross floor area of the Project will be approximately 304,651 square feet; the proposed maximum overall floor area ratio ("FAR") is 4.8. The Project will contain a total of 400 parking spaces.
11. The property that is the subject of this application consists of approximately 60,870 square feet of land located in the block bounded by 3<sup>rd</sup>, 4<sup>th</sup>, H, and I Streets, N.E. The property fronts on 3<sup>rd</sup>, 4<sup>th</sup>, and H Streets and is known as Square 776, Lots 9, 25-31, 51-

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 3

- 53, 800, and 821, as well as portions of public alleys interior to Square 776 that are proposed to be closed (the "Site"). The subject property is currently split zoned C-2-B and C-2-A.
12. The Site is located at the western edge of the H Street N.E. neighborhood commercial overlay (the "H Street Overlay"). Directly to the west across 3<sup>rd</sup> Street is Senate Square, a large residential development on the site of the former Capital Children's Museum. This development is approved to a maximum height of 110 feet. The H Street Overpass (also known as "Hopscotch Bridge") and the railroad tracks leading to Union Station are further west of the Site. The proposed Capitol Place mixed-use project is southwest of the Site across H Street, as is the Station Place office project, which is being built in three phases and is approved to a maximum height of 121 feet. A mix of vacant land and small structures used for retail purposes are located directly south of the Site across H Street. East of the Site, across 4<sup>th</sup> Street, is a residential area zoned R-4. A commercial corridor zoned C-2-A, C-2-B, and C-2-C is east of the Site along H Street. A mix of residential, commercial and institutional uses is north of the Site, across the alley and I Street. At the corner of 4<sup>th</sup> and I Streets is 318 I Street, a development project containing 160,000 square feet, 140 residential units, and a maximum building height of 65 feet.
  13. The Site is located approximately one-third of a mile from the entrance to the Union Station Metrorail Station and fronts on H Street, a major through street served by three Metrobus routes. The Generalized Land Use Map of the Comprehensive Plan designates the Site as mixed-use for moderate-density residential and low-density commercial, and the Policies Map designates it as a Development Opportunity Area.
  14. The PUD regulations require a site in the C-2-A or C-2-B District to contain a minimum of 15,000 square feet of land. The total land area of the entire PUD site is 60,870 square feet, which meets the minimum area requirements for a PUD.

#### **Matter-of-Right Development under Existing Zoning**

15. Approximately 14.9 percent (9,072 square feet) of the Site is zoned C-2-A. The C-2-A District is designed to provide facilities for shopping and business needs, housing and mixed uses. (11 DCMR § 720.2) The C-2-A District permits development to a maximum height of 50 feet, with no limit on the number of stories, and a maximum density of 2.5 FAR. (11 DCMR §§ 770.1, 771.2) A mixed-use commercial/residential building in the C-2-A District is permitted as a matter-of-right. Parking is required at a rate of one space for each 600 square feet of gross floor area and cellar floor area in excess of 2,000 square feet for general office use; one space for each 300 square feet of gross floor area in excess of 3,000 square feet for retail use; and one space for every two dwelling units. (11 DCMR § 2101.1) Commercial development of approximately 13,608

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 4

square feet is permitted as a matter of right with additional residential development of approximately 9,072 square feet also permitted as a matter of right.

16. Approximately 85.1 percent (51,798 square feet) of the Site is zoned C-2-B. The C-2-B District is designated to serve commercial and residential functions similar to the C-2-A District, but with high density residential and mixed uses. (11 DCMR § 720.6) It permits a maximum height of 65 feet, with no limit on the number of stories, and a maximum density of 3.5 FAR. (11 DCMR §§ 770.1, 770.2) Under the PUD guidelines for the C-2-B District, the maximum permitted height is 90 feet and the maximum permitted density is 6.0 FAR. (11 DCMR §§ 2405.1, 2405.2) Parking is required in the C-2-B District at a rate of one space for each 1,800 square feet of gross floor area and cellar floor area in excess of 2,000 square feet for general office use; one space for each 750 square feet of gross floor area in excess of 3,000 square feet for retail use; and one space for every three dwelling units. (11 DCMR § 2101.1) Commercial development of approximately 77,697 square feet is permitted as a matter of right under C-2-B. Additional residential development of approximately 103,596 square feet is also permitted as a matter of right.
17. As a matter-of-right the total development of the Site could be 91,305 square feet of commercial use and 112,668 square feet of residential space. If the Site were developed entirely for residential use, approximately 203,973 square feet would be permitted as a matter of right on the Site under the proposed C-2-B zoning.

#### **Matter of Right Development under Proposed Zoning**

18. Under the proposed PUD, the zoning of the entire site would become C-2-B. The C-2-B designation permits a maximum height of 65 feet, with no limit on the number of stories, and a maximum density of 3.5 FAR. (11 DCMR §§ 770.1, 770.2) Parking is required in the C-2-B District at a rate of one space for each 1,800 square feet of gross floor area and cellar floor area in excess of 2,000 square feet for general office use; one space for each 750 square feet of gross floor area in excess of 3,000 square feet for retail use; and one space for every three dwelling units. (11 DCMR § 2101.1) Commercial development of approximately 91,305 square feet is permitted on the Site as a matter-of-right under C-2-B zoning. Additional residential development of approximately 121,740 square feet is also permitted on the Site as a matter-of-right. If the Site were developed entirely for residential use, approximately 213,045 square feet would be permitted as a matter-of-right under the proposed C-2-B zoning.
19. Under the PUD guidelines for the C-2-B District, the maximum permitted height is 90 feet and the maximum permitted density is 6.0 FAR. (11 DCMR §§ 2405.1, 2405.2)

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 5

**Development Flexibility and Incentives**

20. The Applicant requested flexibility from the following requirements:

- a. *Roof Structures.* The Applicant requested flexibility from the provisions of §§ 411 and 770.6 that require the roof structures to be in a single enclosure and set back from all exterior walls at a 1:1 ratio and that the enclosure be of uniform height. Separate mechanical penthouses were proposed to provide more efficient distribution of mechanical systems and to reduce the mass of the structures on the roof. Due to the narrowness of the building wings and the requirements of the mechanical systems, some of the penthouses will not meet the required setback and will be located in multiple structures. Also, to reduce their visibility, some of the roof structures will not have walls of equal heights.
- b. *Residential recreation space requirement.* Section 773.3 requires that an area equal to 15 percent of the residential gross floor area be dedicated to recreation space. The Applicant proposes to provide an area equal to approximately 10 percent of residential gross floor area for recreation space, totaling approximately 23,647 square feet. Additional space of approximately 4,885 square feet, equal to approximately two percent of residential gross floor area, will be devoted to private outdoor terraces.
- c. *Lot occupancy requirements.* Section 772.1 allows a maximum lot occupancy of 80 percent for any level of a building with a residential use in the C-2-B District. The residential use of the proposed building will begin on the second level with 16,906 square feet of residential space, but the building at this level will occupy approximately 82 percent of the lot. The third level, where the residential use will be more substantial (40,570 square feet), will have a lot occupancy of 68 percent.
- d. *H Street Overlay.* The H Street Overlay requires that new buildings be designed and built so that not less than 75 percent of the streetwall will be constructed to the property line abutting the street right of way, so as not to preclude entrances every 40 feet. The Applicant designed the proposed building to be set back approximately four feet from the property line along H Street so as to provide a more pleasant and efficient pedestrian experience. The Project plans do not provide for an entrance every 40 feet on average, because the proposed grocery store tenant requested a single point of entry to control access and prevent inventory loss. The Project will provide the required entrances for the other retail fronting on H Street.

21. The following benefits and amenities will be created as a result of the PUD Project:

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 6

- a. *Urban Design, Architecture, Landscaping, and Open Space.* The Applicant has presented an appropriate architectural design for the Project that includes a number of features that will benefit both the H Street corridor and the surrounding residential neighborhoods. These benefits include an architectural design that is fresh, while seeking to complement the existing contextual setting in both form and materials. Particular attention has been paid to creating an active, urban retail streetscape, celebratory architectural forms for the corner at 3rd and H Streets and the residential entrance on H Street, and an overall sculpting of the building's massing in concordance with surrounding neighborhood. For the entire length of H Street frontage, the building will be set back from the property a typical distance of four feet in order to increase the width of the sidewalk. This additional width will enhance the pedestrian experience by reducing congestion and allowing for more open space.

The building facades were designed in a style that complements and respects the adjacent buildings, particularly those with a distinct historic character. The facades on the principal street fronts of 3rd and H Streets will employ a framing armature of brick and stone piers complemented with substantial glazed openings. The style of the fenestration will differentiate between the retail and residential floors, allowing for a unique expression of those two uses. The design includes architectural embellishment at the corner of 3<sup>rd</sup> and H Streets to accentuate that location as a gateway to the commercial opportunities along H Street and beyond. The design proposal also includes improvements to the streetscape and adjacent alleys. These improvements will include new paving for the sidewalks, new street lighting fixtures, new and replacement tree boxes, bike racks, and trash receptacles.

- b. *Site Planning and Efficient Economical Land Utilization.* The Project was designed such that its primary bulk will be on H Street, away from the nearby residential community. The building design will provide relief to the adjacent neighborhood by having the building transition from a maximum of 90 feet down to 69-, 59-, and 49-foot levels as it approaches neighboring properties at different locations, as shown on the approved plans. At the corner of 4<sup>th</sup> and H Streets, the building height will step down from 69 feet to approximately 59 feet. At the northwest corner of the Site, the building will step down from 90 feet to 49 feet. At the rear of the building, the design calls for an eight-foot setback at the seventh floor level. These reductions in height will minimize any potential adverse on the adjacent residential community. The Applicant also proposes improvements to 3<sup>rd</sup>, 4<sup>th</sup>, and H Streets, as well as improvements to the remaining alley system in Square 776. In particular, the PUD building will be set back from the property line along the alley, so that the alley effectively will be widened and, in most areas, the available passageway will be more than doubled. The Applicant will

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 7

pave this additional area in the alley to allow more efficient ingress and egress. In addition, the building will be set back four feet from H Street to allow for a wider sidewalk and easier pedestrian passage. The Applicant will also provide significant open space for residents at the second story terrace and roof decks.

- c. *Transportation Features.* The Project offers several transportation management measures. (i) The PUD is located along three bus routes and is less than one-third of a mile from the Union Station Metrorail Station; the location provides significant opportunities for public transportation use with Metrorail, Metrobus, and local and regional trains serving Union Station. This proximity will allow a significant proportion of site trips made by mass transit or other non-passenger car modes. (ii) The Project will include a three-level parking garage that will accommodate approximately 376 cars. This number of parking spaces is more than that required by the Zoning Regulations and will adequately accommodate market parking demands. (iii) The eastern branch of the Metropolitan Branch Trail, which connects Union Station and Takoma Park and provides access to Capitol Hill, is located two blocks to the west of the Project. (iv) The Transportation Study, submitted as Exhibit 6, concluded that the Project would not significantly change the projected future intersection levels of service.
- d. *Employment and Training Opportunities.* The Project will promote residential, retail, and commercial development at an appropriate location that will add to the economy of the District as well as provide expanded employment opportunities for District residents. The Economic Impact Analysis submitted as Exhibits 7 and 52 projected that the equivalent of 176 full-time jobs will be located at the PUD, with an estimated annual District based payroll of \$5,000,000. The development will stimulate economic activity in an area targeted for further revitalization and in accordance with the Comprehensive Plan and its objectives.

The Applicant executed a First Source Employment Agreement to achieve the goal of utilizing District residents for at least 51 percent of the jobs created by the PUD. The Applicant will commit to make a bona fide effort to utilize local, small or disadvantaged business enterprises ("LSDBE") certified by the D.C. Small and Local Business Opportunity Commission ("SLBOC") to achieve, at a minimum, the goal of 35 percent participation in the contracted development costs in connection with design, development, construction, maintenance, and security of the PUD. The Applicant has submitted a Memorandum of Understanding to SLBOC.

- e. *Housing.* This Project will create additional housing stock. Approximately 48 percent of the units will be one-bedroom units, approximately 22 percent of the units will be one-bedroom and den units, approximately 28 percent of the units

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 8

will be two-bedroom units, and approximately two percent of the units will be two bedroom and den units. The Project will provide approximately 10 percent of the increase in gross floor area as housing units affordable to households making no more than 80 percent of the area median income. The Applicant indicated that additional affordable housing units could not be provided in the PUD due to the cost of providing underground parking for the grocery store.

- f. *Special Value to the Neighborhood.* This Project will add special value to the surrounding neighborhood by bringing a grocery store of approximately 45,000 square feet and appropriate retail development that will serve the community. The H Street Overlay specifically encourages a grocery store in this Square.
  - g. *Other Public Benefits and Project Amenities.* The Project will provide economic development in an area designated as a Development Opportunity area. The Applicant's proposal to locate a major mixed-use development with a grocery store will give a boost to the economic development of the area, as shown by the Economic Impact Analysis submitted as Exhibits 7 and 52.
- 22. The PUD is acceptable in all proffered categories of public benefits and amenities and is superior in the categories of architecture and special value to the neighborhood, by providing a 45,000-square-foot grocery store in a location identified as appropriate for retail development serving the community.
- 23. The proposed PUD will advance the purposes of the Comprehensive Plan, is consistent with the Generalized Land Use Map, and will further the major themes and elements of the District and Ward 6 Elements of the Comprehensive Plan. The Project will advance the purposes of the Comprehensive Plan by promoting the social, physical, and economic development of the District through the provision of high quality development that will enhance the built environment.
- 24. The PUD is also consistent with many of the Comprehensive Plan's major themes, as follows:
  - a. *Stabilizing and Improving the District's Neighborhoods.* The proposed PUD will stabilize and improve commercial character of the neighborhood.
  - b. *Respecting and Improving the Physical Character of the District.* The proposed PUD will respect and improve the physical character of the District through the construction of a well-planned and carefully designed development. The PUD's design will enhance the prominence of the H Street corridor and will complement the neighboring residential area.



Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 9

- c. *Reaffirming and Strengthening District's Role as an Economic Hub.* The Comprehensive Plan encourages maximum use of the District's location for both private and public growth to promote economic development. The Project will provide additional jobs to strengthen the economic health of this area. The Comprehensive Plan encourages making maximum use of the District's location at the center of the region's radial Metrorail and commuter rail systems. (10 DCMR § 109.1(b)) The Project will take advantage of this asset by its location along major Metrobus routes and its proximity to the Union Station and Metrorail.
  - d. *Preserving and Ensuring Community Input.* The Comprehensive Plan also encourages the active involvement and input of local communities. For more than six months, the Applicant worked with the Office of Planning in an effort to gather community input on the project and modify the design of the Project to address community concerns.
25. The Project also furthers the specific objectives and policies of many of the Comprehensive Plan's major elements as follows:
- a. *Economic Development Element.* The objective of economic development outside of the Central Employment Area is to create and expand economic activity and employment centers. (10 DCMR § 206.1) In support of the objective, it is a policy to support appropriate development of the H Street, N.E. corridor. (10 DCMR § 206.2(b)) The Project will bring appropriate commercial and retail development to the H Street area.

An additional policy of this element is to enhance the environmental quality of areas of significant development through guidelines related to access and egress, setbacks, landscaping, lighting, facades, and structural relationships to adjacent buildings. (10 DCMR § 204.2(c)) The Project will contribute to a sense of place in the H Street area. The design is sensitive to the nearby residential communities, acknowledging their low-rise nature by a decrease in height of the proposed building. The Project will also provide improvements to the surrounding streetscapes and will enhance the overall environmental quality of the area.
  - b. *Housing Element.* The general objectives for housing are to stimulate production of new and rehabilitated housing to meet all levels of need and demand and to provide incentives for the types of housing needed at desired locations. (10 DCMR § 302.1) Policies in support of these objectives are: (i) to encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land-use policies and objectives (10 DCMR § 302.2(a)); and (ii) to designate, as residential development opportunity areas, sites where significant housing development can occur and encourage multi-unit housing development near selected Metrorail

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 10

stations, at locations adjacent to Downtown, and adjacent to proposed employment centers and office areas. (10 DCMR § 302.2(d))

The Project is consistent with the objectives and policies of this element. The PUD will provide 210 to 250 new housing units in an area designated by the Comprehensive Plan as a Development Opportunity Area and designated by the H Street N.E. Strategic Development Plan as a housing sub-district. Approximately 10 percent of the increased floor area will be affordable housing units.

- c. *Transportation Element.* It is the goal of the District to “[p]romote the increased use of mass transit, in the District and the region.” (10 DCMR § 503.2(c))

Development of the Project at the Site, served by major Metrobus routes and within close proximity to the Union Station Metro Station, will promote and stimulate the use of existing mass transit service.

A basic philosophy of the District’s Transportation Element is to provide for the efficient movement of people and goods within the District and its metropolitan area. (10 DCMR § 500.2) The policies established in support of the general transportation objectives include supporting land use arrangements that simplify and economize transportation services. (10 DCMR § 502.1(a)) The location of the Project along major Metrobus routes and near Union Station Metrorail Station furthers this goal.

- d. *Urban Design Element.* “The policy...in support of the urban design objective is to enhance the physical image and symbolic qualities of the District that establish its character as an urban center and the nation’s Capital.” (10 DCMR 702.2)

The proposed PUD will enhance the quality of the area through superior design elements that respect the special character of this prominent commercial corridor. It is the goal of the District to “encourage new development within areas of strong architectural character to contribute to the physical identity and character of the area.” (10 DCMR 710.2(d))

The Project proposes a design that provides a rich and vibrant texture to this prominent gateway and enhances the vibrancy of this commercial corridor.

The Urban Design Element states that it is the District’s goal “to promote the protection, enhancement and enjoyment of the natural environs and to promote a built environment that serves as a complement to the natural environment, provides visual orientation, enhances the District’s aesthetic qualities, emphasizes neighborhood identities, and is functionally efficient.” (10 DCMR § 701.1)

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 11

The Project has been designed to enhance the physical character of the area and complement the materials, height, scale, and massing of the moderate-density commercial area to the east along H Street and the moderate-density residential community to the east and north. (10 DCMR § 708.2) As previously stated, the Project's height will step down – from 90 feet to approximately 69 feet – to better fit with the nearby residential community. In this regard, the Project's massing and scale will be sensitive to the established patterns of development in the area. (10 DCMR § 710.2(e))

The streetscape objective of this element is to establish a clear classification of streets and sidewalks that is functionally efficient and visually coherent, enhances the pedestrian environment, and provides for the orderly movement of goods and services. (10 DCMR § 709.1) The Project proposes significant enhancements to the streetscape along 3<sup>rd</sup>, 4<sup>th</sup>, and H Streets. Of particular note, the proposed building will be set back four feet from the property line along H Street to provide a wider sidewalk and better pedestrian environment.

- e. *Land Use Element.* It is the goal of the District to "promote appropriate commercial development, including centers for retail and office uses, to serve the needs of the economy of the District and its neighborhoods...." (10 DCMR § 1108.1(a))

The Project responds to this goal by providing mixed-use development with a superior design that will foster the continued growth of the District's economy and employment base while providing additional residential stock for its citizens. The Project will be located within a Development Opportunity Area. These areas offer opportunities to accommodate new growth and development. (10 DCMR § 1118.3)

26. The Comprehensive Plan Generalized Land Use Map depicts the Site in a mixed-use category. The Generalized Land Use Policies Map depicts the Site in a Development Opportunity Area. The proposed PUD is consistent with the Generalized Land Use Maps.
27. The Project will fulfill and further the specific objectives for this area as set forth in the Comprehensive Plan for Ward 6:
- a. *Ward 6 Economic Development.* An objective of this element is to encourage a range of commercial services and facilities for Ward 6 residents through appropriate development of commercial areas when needed and to upgrade commercial areas such as H Street, N.E. (10 DCMR § 1701.1(a)) It is a policy to ensure that the redevelopment of the commercial corridors, such as H Street, N.E.,

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 12

include a large percentage of neighborhood-serving commercial uses. (10 DCMR § 1702 (c))

The Project will provide commercial and retail development, including a grocery store, to serve the surrounding neighborhood while upgrading the H Street commercial area.

- b. *Ward 6 Housing.* A policy of this element is to stimulate private investment in housing in Ward 6 and expand home ownership opportunities. (10 DCMR § 1706.1(c)) The Project will provide 210 to 250 new dwelling units to the area, a portion of which will be affordable housing.
- c. *Ward 6 Transportation.* An objective of this element is to provide an adequate balanced circulation system, properly related to residential, commercial/retail, and other land uses, that will enhance the aesthetic and environmental characteristics along streets in the Ward 6 area, as well as to minimize traffic congestion. (10 DCMR § 1713.1(a)) The Project complies with this element.
- d. *Ward 6 Urban Design Element.* This element encourages high-quality architecture consistent with the styles and characteristics of buildings in Ward 6 (10 DCMR § 1721.1(c)) and is meant to ensure that redeveloped and new structures in Ward 6 commercial corridors strengthen the urban design image of those areas and relate to adjacent residential neighborhoods. (10 DCMR § 1722.1(a)) It also encourages developments that provide streetscape improvements, trees, signs, lights, and other such elements to enhance the environment in Ward 6. (10 DCMR § 1722.1(d)) A policy of this element is to continue to improve the design and upkeep of public spaces, including streets, sidewalks, small open spaces, and large formal squares in Ward 6. (10 DCMR § 1722.1(e))

The Project has been designed to enhance the physical character of the area and complement the materials, height, scale, and massing of the nearby moderate-density commercial uses and the established moderate-density residential community to the east. The Applicant proposed landscaping and streetscape improvements to 3<sup>rd</sup>, 4<sup>th</sup>, and H Streets, as well as improvements to the alley system in the center of Square 776.

- e. *Ward 6 Land Use Element.* The Land Use Element for Ward 6 encourages more business development along the H Street corridor. (10 DCMR § 1732.7) This Project proposes appropriate commercial and retail development in this area.

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 13

### **Office of Planning Report**

28. By report dated June 26, 2006 and through testimony presented at the public hearing, the Office of Planning ("OP") recommended approval of the PUD application. OP stated that the proposed PUD is not inconsistent with the objectives and policies of the Comprehensive Plan. OP further stated that the proposal is consistent with the H Street N.E. Strategic Development Plan and the H Street Overlay. OP also stated that the Project met the objectives and evaluation standards and for a PUD. OP stated that the grocery store will be a significant amenity to the community. OP stated that it was "very supportive" of the PUD.

### **District Department of Transportation Report**

29. By report dated June 28, 2006, the District Department of Transportation ("DDOT") stated it had no objections to the Project.

### **Advisory Neighborhood Commission**

30. By resolution dated July 6, 2006, ANC 6C supported the proposed PUD project and map amendment.

### **Issues Raised by Persons in Opposition**

31. Seven persons testified in opposition. Issues raised by these persons generally included concerns about traffic and parking in the area, noise and odors in the alley system from loading and trash collection, the impact that the height and mass of the building would have on neighboring residential properties, and the closing of the alleys.

### **Response Presented by the Applicant**

32. The Applicant presented responses to the issues raised by the persons in opposition during its rebuttal and its post-hearing submissions. As well, several issues were previously addressed during the Applicant's case-in-chief and its application materials. During rebuttal, the Applicant's witness, Mr. Walters, explained that trash would not be stored outdoors. The trash dumpsters would be kept indoors and rolled outside when ready for pick-up by the trash collection service. Mr. Walters also pointed out that the project design permitted significant step-downs in height at the corner of 4<sup>th</sup> and H Streets as well as the northwest corner of the Project along 3<sup>rd</sup> Street. The design calls for setbacks from the building line to widen the alley and an additional eight-foot setback beginning at the seventh floor at the rear of the building. The Applicant, in its post-hearing submission, proposed to limit the size of trucks accessing the alley off 4<sup>th</sup> Street and the hours of use of that area. The Commission will so condition this Order.

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 14

33. In response to comments by the Commission at its public meeting on September 11, 2006, the Applicant submitted revised plans, dated October 5, 2006 (Exhibit 58), that (i) reduced the height of the center apartment wing by two stories; (ii) included a stair penthouse at the south end of the center wing, continuing the second means of egress from the roof terrace on top of the eighth floor of the H Street wing to the penthouse on the top floor of the center wing (two stories down) and then down through the building; (iii) included a six-foot setback on the east side of the sixth floor (the top floor) of the center wing; (iv) eliminated the retail grocery mezzanine and replaced it with residential units; (v) reduced the density from 5.0 FAR to 4.8 FAR; (vi) reallocated the parking supply so as to assign 152 spaces to the retail use and 247 spaces to the residential use; and (vii) required an acoustical façade treatment around the residential loading berth.

### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2)
2. Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage construction of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD is within the applicable height, bulk, and density standards of the Zoning Regulations. The size, scale, design, and use of the building are appropriate for this site and the commercial nature of H Street. Accordingly, the project should be approved. The impact of the project on the surrounding area will not be unacceptable. As set forth in the Findings of Fact, the proposed development has been appropriately designed in

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 15

terms of height and mass and will be complementary to the adjacent commercial and residential buildings.

6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The number and quality of the project benefits and amenities offered are commensurate with the degree of flexibility granted for the development proposed on the site, including requirements. The PUD responds to both the surrounding commercial and residential buildings.
8. Approval of this PUD is appropriate, because the proposed development is consistent with the present character of the area.
9. Approval of this PUD and the related change of zoning is not inconsistent with the Comprehensive Plan.
10. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give great weight to the issues and concerns of the affected ANC. The Commission has carefully considered the ANC's recommendation of approval and concurs in its recommendation.
11. The application for a PUD and related map amendment will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
12. The application for a PUD and map amendment is subject to compliance with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended.

### **DECISION**

In consideration of the Findings of Fact and the Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for consolidated review of a planned unit development for Square 776, Lots 9, 25-31, 51-53, 800, and 821 and the various portions of the alleys proposed to be closed in Square 776, and for a related Zoning Map amendment from C-2-A to C-2-B for Lots 25-31 of Square 776 and portions of the public alleys proposed to be closed, subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by Torti Gallas and Partners dated October 5, 2006, marked as Exhibit No. 58 of the record (the "Plans"), as modified by the guidelines, conditions, and standards herein.

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 16

2. The PUD shall be a mixed-use building containing residential, retail, and service uses, including a grocery store, as shown on the Plans. The building shall contain approximately 304,651 square feet of gross floor area. The total project shall have a maximum overall density of 4.8 FAR.
3. The maximum height of the building shall be 90 feet, as shown on the Plans. The building may include a roof structure in excess of that height, with a height not to exceed 18.5 feet above the roof upon which it is located, as shown on the Plans.
4. The Project shall include a minimum of 247 parking spaces allocated to the residential use and 152 allocated to the retail use in the below-grade parking garage.
5. The Project shall include three 55-foot loading berths and two 20-foot service/delivery/loading spaces, as shown on the Plans. Trucks using the residential loading berth shall not exceed 30 feet in length. Residential loading shall not occur before 9:00 a.m.
6. The Applicant shall include landscaping for the project as shown on the Plans. The Applicant or its successors shall maintain all landscaping for the duration of the Project.
7. Landscaping in the public space on the surrounding public streets shall be in accordance with the Plans, as approved by the Public Space Division of DDOT. The Applicant or its successors shall maintain all landscaping in the public space for the duration of the Project.
8. Approximately 10 percent of the increase in gross floor area shall be devoted to housing units that will be affordable to households making no more than 80 percent of the area median income.
9. Forty-five thousand square feet of gross floor area shall be reserved for a grocery store use.
10. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
  - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials;



Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 17

- c. To make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the District of Columbia building code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and
  - d. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below the minimum number specified.
- 11. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.
  - 12. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
  - 13. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order.
  - 14. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq. ("Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

Z.C. ORDER NO. 06-01

Z.C. CASE NO. 06-01

PAGE 18

On October 16, 2006, the Zoning Commission **APPROVED** the application by a vote of 5-0-0 (Carol J. Mitten, Gregory Jeffries, Anthony J. Hood, John G. Parsons, and Michael Turnbull to approve).

On December 11, 2006, the Zoning Commission took final action to **ADOPT** this Order by a vote of 5-0-0 (Carol J. Mitten, Gregory N. Jeffries, Anthony J. Hood, John G. Parsons, and Michael Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register; that is on OCT 12 2007.

**DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR**

**Washington, D.C., December 7, 2005**

Plat for Building Permit of: SQUARE 776 LOTS 4,9, 25-31, 51-53 &amp; 821

**Scale: 1 inch = 40 feet**

Recorded in Book A&T Page B-178 (LOTS 4,9,25-31)  
Book 178 Page 41 (LOTS 51 -53)  
A & T Book Page 3795-M (Lot 821)

Receipt No. 24546

Furnished to: **FREDA**

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this platland that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: \_\_\_\_\_

  
Surveyor, D.C.

By: L.M.A.

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

